

**EXHIBIT A to the Declaration Of Laura W. Sawyer In Further
Support Of Debtors' Motion For An Order Excluding The
Testimony Of Daniel Curry And Jeffrey Hasterok**

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IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
Chapter 11
CASE NO. 08-13555 (JMP)
Jointly Administered

IN RE: LEHMAN BROTHERS
HOLDINGS, INC. et al.

Debtors,

VIDEOTAPED TRANSCRIPT OF
DEPOSITION OF PETER SHAPIRO

TRANSCRIPT of the stenographic notes of the proceedings in the above-entitled matter, as taken by and before TAB PREWETT, a Registered Professional Reporter, a Certified Shorthand Reporter, a Certified LiveNote Reporter, and Notary Public, held at the Offices of JONES DAY, 222 East 41st Street, New York, New York, on Thursday, October 16, 2014, commencing at 10:07 a.m.

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1 APPEARANCES:

2 JONES DAY
3 BY: LAURA W. SAWYER, ESQ.
4 REBEKAH BINGER, ESQ.
5 222 East 41st Street
6 New York, New York 10017-6702
7 Attorneys for Lehman Brothers

8 PACIFICA LAW GROUP
9 BY: PAUL J. LAWRENCE, ESQ.
10 1191 2nd Avenue
11 Seattle, Washington 98101-2945
12 Attorneys for Washington TSA

13 ALSO PRESENT:

14 Ilitch Peters, Videographer
15 Thomas Hommel, Esq.
16 Counsel
17 Office of the General Counsel
18 Lehman Brothers Holdings, Inc.
19 1271 Avenue of the Americas
20 New York, New York 10020
21
22 Dean Melchior, Lehman Brothers
23 Mr. Hommel and Mr. Melchior
24 left at the first break.

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1 Peter Shapiro

2 P R O C E E D I N G S

3 THE VIDEOGRAPHER: This is tape
4 number one of the videotaped
5 deposition of Mr. Peter Shapiro in the
6 matter of In Re: Lehman Brothers
7 Holdings, Inc., et al., Debtors, in
8 the United States Bankruptcy Court,
9 Southern District of New York, case
10 number 08-13555 (JMP).

11 This deposition is being held
12 at Jones Day, 222 East 41st Street, on
13 October 16, 2014, at approximately
14 10:07 a.m.

15 My name is Ilitch Peters from
16 the firm of Elisa Dreier Reporting
17 Corporation, and I am the legal video
18 specialist. The court reporter is
19 Tab Prewett in association with Elisa
20 Dreier Reporting Corporation, located
21 at 950 Third Avenue, New York,
22 New York.

23 For the record will counsel
24 please introduce themselves.

25 MS. SAWYER: Lauri Sawyer and

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1 Peter Shapiro

2 Rebekah Binger from Jones Day on
3 behalf of the Debtors.

4 MR. LAWRENCE: Paul Lawrence
5 for the Washington State Tobacco
6 Settlement Authority.

7 THE VIDEOGRAPHER: Now, will
8 the court reporter please swear in the
9 witness.

10 P E T E R S H A P I R O,
11 having been sworn by the notary public to
12 testify to the truth, testified as follows:
13 DIRECT EXAMINATION
14 BY MS. SAWYER:

15 Q Good morning, Mr. Shapiro.
16 A Good morning.

17 Q I know you have been deposed
18 before, but I want to remind you of a few
19 things before we get started. First, we
20 need to speak slowly and carefully for the
21 court reporter, who is trying to take down
22 everything we say.

23 As part of that you should try
24 to wait until I finish a question before
25 you answer. And likewise I will try to

1 (Pages 256 to 259)

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1 Peter Shapiro
2 wait until you finish an answer before I
3 ask my next question.
4 You also need to answer my
5 questions out loud, even though we do have
6 a videographer today, so that the court
7 reporter can take your answers down.
8 Do you understand?
9 A Yes.
10 Q And if you don't understand a
11 question I ask, I'd ask you to tell me and
12 ask me to rephrase it. If you answer one
13 of my questions, I am going to assume that
14 you understood what I meant, so please be
15 careful.
16 A Thank you for the warning.
17 Q And if you need a break at any
18 time, please let me know, and we can take
19 one. I would ask that you answer any
20 pending question before we take a break
21 unless it involves a matter of privilege.
22 Understood?
23 A Yes.
24 (Exhibit No. Shapiro 32, E-Mail
25 chain, top E-Mail dated 1/9/09 from

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1 Peter Shapiro
2 A Correct.
3 Q The second sentence, you say:
4 "My colleague James Vergara
5 will be doing the modeling on the
6 Agreement" -- with a capital "A."
7 Do you see that?
8 A Yes.
9 Q What does that mean that
10 Mr. Vergara would be doing the modeling on
11 the agreement?
12 A When you are looking for
13 valuation, you use a model, and he would be
14 the one operating the model.
15 Q Okay. And what model was
16 Mr. Vergara going to be using?
17 A Whatever would be appropriate.
18 We had a variety of models.
19 Q And had you had a discussion
20 with Mr. Vergara at this time about what
21 model would be appropriate?
22 A No.
23 Q Did you discuss at any time
24 with Mr. Vergara what model would be
25 appropriate for determining the value of

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1 Peter Shapiro
2 Bob Cook to Peter Shapiro, Subject:
3 TSA, Bates Nos. TSA 42725 to 42727, is
4 marked by the reporter for
5 identification.)
6 Q The court reporter has handed
7 you a document that has been marked as
8 Shapiro Exhibit 32. For the record, it's a
9 multi-page E-Mail, Bates stamped TSA 042725
10 through 042727. I will give you a chance
11 to look at the document. My first question
12 is:
13 Do you recognize the document?
14 A Let me look through it before I
15 answer that, please. And I should read
16 this in reverse order, I assume, right.
17 Q That's generally the way it
18 makes the most sense to people.
19 A Yes. I finished reading it,
20 yes.
21 Q Start with the bottom E-Mail
22 that's not redacted, so the one on the last
23 page, at 2:58 p.m., from you to Mr. Rich,
24 Bob Cook, and James Vergara.
25 Do you see that one?

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1 Peter Shapiro
2 the RFA?
3 A I may have. I can't remember.
4 Q Did you leave it up to
5 Mr. Vergara to select the model for the
6 agreement?
7 A Yes, subject to my looking at
8 the output and assumptions and stuff like
9 that.
10 Q And why did you leave it up to
11 Mr. Vergara to select the model to be used
12 to value the RFA?
13 A I don't operate models myself.
14 That's what we have a team to do.
15 Q And that's what you had
16 Mr. Vergara to do?
17 A He was part of that team. Yes.
18 And on this specific agreement, he was the
19 guy charged with it.
20 Q And just to make sure we are
21 clear, when I say "RFA," I am referring to
22 the reserve fund agreement between
23 Washington State Tobacco Settlement
24 Authority and Lehman Brothers.
25 Do you understand that?

2 (Pages 260 to 263)

1 Peter Shapiro
2 A We have had the good luck of
3 talking about this before. So, yes, I do.
4 Q Okay. Thank you.
5 If you look at the E-Mail on
6 the page TSA 42726 at the bottom of the
7 page, which is another E-Mail from you to
8 Bob Cook on December 21 at 8:16 p.m., do
9 you see where I am at?
10 A Yes, I do.
11 Q In the last paragraph of that
12 E-Mail, the third sentence, you say:
13 "My colleague James Vergara is
14 doing the financial analysis parentheses he
15 spent some time on the Lehman swap desk and
16 knows the Agreement" -- again, with a
17 capital "A" -- "very well."
18 Do you see that?
19 A Yes.
20 Q What had you told TSA at this
21 time about Mr. Vergara's experience with
22 reserve fund agreements, again?
23 A I think I told them literally
24 what it says in this E-Mail.
25 Q And --

1 Peter Shapiro
2 worked on the Lehman desk in connection
3 with this RFA?
4 A Not with this specific one. In
5 fact, I know for certain -- I don't think
6 he was on the Lehman desk at the time this
7 agreement was entered into.
8 Q Did you at any time ever tell
9 TSA that he did have personal knowledge of
10 the Washington RFA from his time at Lehman?
11 MR. LAWRENCE: Sorry. Did you
12 say he did or he did not?
13 A Did or didn't? Yeah.
14 Q That he did.
15 A That he did have personal
16 knowledge from the inception of the
17 agreement?
18 Q No. That based upon -- let me
19 ask the question again.
20 Did you ever tell Washington
21 TSA that Mr. Vergara had personal knowledge
22 of the agreement, whether at the inception
23 or some other time, based upon his
24 experience at the Lehman desk?
25 A No.

1 Peter Shapiro
2 A If it weren't the exact same
3 words, it was the same meaning, the same
4 import.
5 Q And did you tell Washington TSA
6 Mr. Vergara had experience with the
7 specific RFA at issue?
8 A This RFA?
9 Q Yes.
10 A No.
11 Q You did use the capital "A"
12 "Agreement" in this E-Mail referring to
13 that RFA, correct?
14 A Correct.
15 Q And you said that Mr. Vergara
16 knows the agreement very well?
17 A Right.
18 Q So you were referring to --
19 what are you referring to when you refer to
20 that?
21 A Agreements of this type and
22 style. So looking at this agreement, it
23 wouldn't be something that would be
24 unfamiliar to him.
25 Q You aren't implying that he

1 Peter Shapiro
2 Q And if you look at the second
3 paragraph of that E-Mail, you say:
4 "We have quoted our fees as per
5 market convention in terms of basis point
6 of yield value."
7 Do you see that?
8 A Correct.
9 Q "And for your information, our
10 analysis of the agreement shows that one
11 basis point is equal to approximately
12 \$105,000"?13 A Right.
14 Q How was that determined that
15 one basis point equaled approximately
16 \$105,000?
17 A From the model that James would
18 have been using.
19 Q So that would have been a
20 valuation or determination made by
21 Mr. Vergara?
22 A It wouldn't have been a
23 valuation. It would have been a
24 determination. Yes.
25 Q But he was the one responsible

1 Peter Shapiro
2 for determining the value of basis points?
3 A Correct.
4 Q And you believe that
5 Mr. Vergara determined the value of a basis
6 point accurately?
7 A My sense, Lauri, is this was a
8 preliminary determination, and that that
9 '01 value, when I have looked at subsequent
10 documents, doesn't -- it looks like it's a
11 little bit off to me.
12 Q But you were basing your fees
13 on that calculation determined by
14 Mr. Vergara at this time, correct?
15 MR. LAWRENCE: Object. Object
16 to the form.
17 Q You can answer.
18 A We weren't basing our fees on
19 it. We were basing a proposal on it. As
20 you can see by the subsequent E-Mails, that
21 was not the fee arrangement that was
22 accepted.
23 Q But you quoted your fees in
24 terms of basis points, and the basis points
25 was based on the determination made by

1 Peter Shapiro
2 A It would have been done by
3 James or another member of the staff.
4 Q Do you recall the value of a
5 basis point?
6 A Yes.
7 Q What is that?
8 A The value of a basis point
9 depended upon the point in time that you
10 looked at it. The value at the inception
11 of the agreement in '02 would have been one
12 number. If we had -- if you had looked at
13 it on the -- you know, based upon the, you
14 know, the market environment that existed
15 in December of '08 would have been another
16 number.
17 In March of '09 when the actual
18 termination took place, it would have been
19 still another number.
20 And as you will recall from
21 prior depositions and because of your
22 familiarity with this case, the value of an
23 '01 would change based upon the correction
24 that was brought to our attention in the
25 final maturity date of the agreement

1 Peter Shapiro
2 Mr. Vergara, correct?
3 A In that initial proposal,
4 correct.
5 Q So at this time you believed
6 this to be an accurate determination as to
7 the value of a basis point?
8 A I believed it to be a
9 preliminary determination.
10 Q And at what point did you
11 revisit the determination of the value of a
12 basis point?
13 A I can't recall.
14 Q But you have revisited it?
15 A Yes.
16 Q Okay. Did you personally
17 revisit the issue of the value of a basis
18 point?
19 A How does one "personally
20 revisit" the value of a basis point?
21 Q Are you the one that
22 recalculated what you believed a basis
23 point to be worth?
24 A No.
25 Q Who did that?

1 Peter Shapiro
2 because that moves the '01.
3 Q Perhaps you should explain to
4 me how you determined the value of a basis
5 point?
6 A The value of a basis point is
7 determined by a model. The inputs into
8 determining the value of one basis point
9 is:
10 How much would the value of the
11 transaction in question -- and this would
12 be any type of transaction -- change based
13 upon shifting interest rates across the
14 yield curve by one basis point?
15 Now, you can think of this in
16 relatively simplified ways. This is --
17 this is not rocket science by any means.
18 You can think of it this way, and that is:
19 For -- if the agreement never
20 changed in terms of its principal value,
21 its size, what we usually refer to in the
22 swap world as its notional amount, if it --
23 so if that amount didn't change, you
24 wouldn't have to factor in amortization or
25 anything like that -- for each year, one

1 Peter Shapiro
 2 basis point would be worth something.
 3 Let's simplify it just to
 4 illustrate, okay, on this. If the
 5 agreement had a size of \$10,000, okay,
 6 1 percent of \$10,000 would be \$100. One
 7 basis point would be 1/100th of that or \$.1.
 8 Okay. So for each year,
 9 \$10,000 in '01 would be \$.1. If the
 10 agreement went on for 15 years, it would be
 11 worth \$15 gross. Okay. That is 15 times
 12 one would get you to \$15.
 13 But to determine the DV '01,
 14 dollar value of an '01, you would have to
 15 take the present value of that \$15, and
 16 carry it back to right now.
 17 A dollar right now on that
 18 first year's 10,000 is worth about dollar
 19 because there is not much of a present
 20 value factor in the first year. But a
 21 dollar in year 15 is worth considerably
 22 less.
 23 So for that reason, it would
 24 not equal 15, but, let's say
 25 hypothetically, it would equal ten, which

1 Peter Shapiro
 2 example, on inception, or December of 2008,
 3 or March of 2009, correct?
 4 A Correct.
 5 Q And you didn't have any trouble
 6 calculating the DV '01 at any of those time
 7 periods?
 8 A What do you mean by "trouble"?
 9 Q I mean, you had the available
 10 information to be able to determine the DV
 11 '01 at those time periods?
 12 A As you are aware, initially we
 13 had wrong information.
 14 Q But the "wrong information"
 15 being the maturity date of the RFA?
 16 A That's correct.
 17 Q But other than that, did you
 18 have any difficulty determining the value
 19 of a basis point in December of 2008?
 20 A We should not have. No.
 21 Q Okay. Or --
 22 A Again, you know, again, I don't
 23 run the model. I am telling you how the
 24 model -- the fundamentals of how the model
 25 works. But there shouldn't be any problem

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1 Peter Shapiro
 2 just by the seat of the pants calculation
 3 is about right. Typically, 15 years PV is
 4 back to about ten times.
 5 Q How do you determine the
 6 present value of those 15 years in your
 7 example?
 8 A The normal -- the norm is to
 9 use a discount rate. And that discount
 10 rate can vary based upon your inputs. But
 11 the normal thing you are going to look at
 12 is the market's cost of funds, which is
 13 deemed to be LIBOR based upon the LIBOR
 14 swap curve.
 15 So the discounting based upon
 16 that curve going out -- if you had a
 17 payment in each one of 15 years in my
 18 illustration, you would apply a different
 19 discount rate based upon what the LIBOR
 20 swap rate would do -- kind of a cumbersome
 21 thing to sit and do on a scratch pad, but a
 22 model does it like this for you.
 23 Q And you said that you could --
 24 you determined the DV '01 or the value of a
 25 basis point at various points in time, for

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1 Peter Shapiro
 2 determining an '01.
 3 You can get a wrong output,
 4 just so you know. It's very frequently the
 5 case that, when we are checking price on a
 6 transaction in a live market as well as
 7 just a hypothetical, and checking price
 8 against one of the big swap dealer firms,
 9 whether it be JP Morgan or Goldman Sachs or
 10 Deutsche Bank, that one of our first stops
 11 in making sure that both firms are seeing
 12 things the same is that we confirm the '01
 13 values against each other.
 14 So before we do any kind of
 15 valuation work or pricing work, our first
 16 thing is to say what's the '01 you're
 17 coming up with per the agreement. And if
 18 we have a difference on that, we know there
 19 is an input problem, a typographical error,
 20 a modeling issue of some kind.
 21 But that's usually step number
 22 one in the ABCs of pricing a derivative
 23 transaction.
 24 And there are differences,
 25 Lauri. You do pick up errors there. So I

1 Peter Shapiro
2 am not saying we always get it right
3 100 percent of the time. But, you know,
4 that's one of the things you check.

5 Q If you look at the E-Mail at
6 the top of page 42726, which is an E-Mail
7 from Bob Cook to you and others.

8 A That's the one that begins at
9 the bottom of 42725?

10 Q Right. The first line of the
11 E-Mail is:
12 "Peter, thanks for preparing
13 this."

14 A Yes.

15 Q And he says:
16 "We may not have been clear
17 enough in our earlier communications."

18 Do you see that?

19 A Yes.

20 Q The last paragraph of this
21 E-Mail, he says:

22 "Any possible replacement
23 process for the agreement is down the road
24 and will have to be undertaken once we have
25 a definitive settlement."

1 Peter Shapiro
2 you a document that has been marked as
3 Shapiro Exhibit 33, which is a two-page
4 document, Bates stamped TSA 42818 through
5 42819.

6 It appears to be draft
7 memorandum from the Swap Financial Group,
8 dated December 22, 2008, with some black
9 lining on that. Have you had a chance to
10 look at this?

11 A Yes, I have.

12 Q And was this prepared -- who
13 prepared this document?

14 A I can't tell from looking at
15 it.

16 Q Did you -- did Swap Financial
17 Group prepare it?

18 A I believe so.

19 Q Do you know if you prepared it?

20 A I'd be -- as I said, I can't
21 tell from looking at it. I would be
22 speculating, but, yeah, it could have been
23 me. It could have been James.

24 Q And these were the services
25 that Swap Financial was proposing to do for

1 Peter Shapiro
2 Do you see that?
3 A Yes.
4 Q So at this point in time
5 Washington TSA was not looking to replace
6 the agreement?

7 A I don't think you can say that
8 from this E-Mail.

9 Q They weren't looking to engage
10 you to replace the agreement?

11 MR. LAWRENCE: Object. Calls
12 for speculation.

13 A You know, I would have to look
14 back at the attachment that would have
15 accompanied the earlier E-Mail. You know,
16 otherwise, I would just be speculating.

17 (Exhibit No. Shapiro 33,
18 Memorandum dated 12/22/09 from Peter
19 Shapiro to Tobacco Settlement
20 Authority, Bob Cook, Subject: Reserve
21 Fund Agreement Advisory Services,
22 Scope of Services, Bates Nos. TSA
23 42818 to 42819, is marked by the
24 reporter for identification.)
25 Q The court reporter has handed

1 Peter Shapiro
2 Washington TSA in December of 2008?
3 A When you are referring to
4 "these"?

5 Q The services reflected in this
6 draft memorandum.

7 A With the black lining or
8 without the black lining?

9 Q What did you initially propose
10 to Washington TSA to be the services to be
11 provided by Swap Financial Group?

12 A Do you have another exhibit
13 that shows the initial proposal?

14 Q No.

15 A Then I would have to just
16 assume, looking at this -- and I am saying
17 this is an assumption -- that it would have
18 been what existed prior to the black
19 lining.

20 Q So you would have been
21 proposing the services that Swap Financial
22 would provide to TSA, being, one,
23 valuation, two, strategy, three,
24 replacement, as the initial proposal made
25 by Swap Financial?

1 Peter Shapiro
2 A Yes, and that makes sense
3 obviously from the E-Mail that -- the
4 dialogue that is going on within the
5 E-Mails in the prior exhibit that you
6 referenced.
7 Q Right, that Swap Financial
8 Group had initially proposed one of the
9 things it could do for Washington TSA would
10 be to give them a replacement transaction?
11 A Correct.
12 Q And Mr. Cook advised you that
13 Washington TSA wasn't interested in using
14 Swap Financial's services in December of
15 2008 to secure a replacement transaction?
16 MR. LAWRENCE: Object.
17 Argumentative.
18 A I think it's clear from what he
19 says in his E-Mail. I can read that out
20 loud if you want.
21 Q What is clear from his E-Mail?
22 A The response to your question.
23 Q That Washington TSA did not
24 want to use Swap Financial's services to
25 finds a replacement transaction in December

1 Peter Shapiro
2 being one of the services to be provided?
3 A You asked me that question
4 earlier.
5 Q Did Swap Financial Group revise
6 the memorandum, or did TSA revise the
7 memorandum?
8 A I believe we revised it.
9 Q And you replaced the -- you
10 replaced the word "replacement" with the
11 phrase "negotiation and litigation
12 assistance"?
13 A That's what -- that's what the
14 black line shows.
15 Q Consistent with the E-Mail in
16 Shapiro Exhibit 32 as to what Mr. Cook
17 wanted you to do?
18 A Being responsive to the
19 client's request.
20 Q And going back to Mr. Cook's
21 E-Mail, the first paragraph, he says in the
22 third sentence:
23 "PFM was the TSA's financial
24 advisor on the initial bond transaction
25 included the bidding and the selection of

1 Peter Shapiro
2 of 2008?
3 MR. LAWRENCE: Objection.
4 Argumentative.
5 A Rather than use your words, I
6 would use his words here.
7 Q That "any possible replacement
8 process for the agreement would be
9 undertaken once we have a definitive
10 settlement"!
11 A That's what his E-Mail says.
12 Q And you understood --
13 A He doesn't say he doesn't want
14 to use Swap Financial Group to do it.
15 Q You understood that Washington
16 TSA wasn't interested in a replacement
17 transaction until after it had a definitive
18 settlement with Lehman?
19 MR. LAWRENCE: Objection.
20 Asked and answered. Argumentative.
21 And calls for speculation.
22 A I would just say I understood
23 what the words of this E-Mail say.
24 Q And so you -- did you revise
25 Shapiro Exhibit 33 to remove replacement as

1 Peter Shapiro
2 Lehman as the forward purchase agreement
3 provider. They continue to serve US in the
4 role of FA."
5 Do you see that?
6 A Yes.
7 Q Did you understand in
8 December 2008 that Washington TSA was still
9 using PFM for financial advisory services?
10 A That's what this says clear as
11 a bell.
12 Q Okay. And you were aware of
13 that in December of 2008?
14 A I was aware --
15 MR. LAWRENCE: You're asking
16 him he independently from what was in
17 the E-Mail?
18 Q I want to confirm that you did
19 know PFM was serving as TSA's financial
20 advisor in December of 2008.
21 MR. LAWRENCE: Okay.
22 Objection. Argumentative and
23 cumulative and asked and answered.
24 (There was a discussion off the
25 record.)

1 Peter Shapiro
 2 MR. LAWRENCE: Argumentative,
 3 cumulative, and asked and answered.
 4 The last two the same objection.
 5 A I would ask you to clarify.
 6 Are you saying prior to this E-Mail, based
 7 upon this E-Mail, subsequent to this
 8 E-Mail?
 9 Q When did you learn that PFM was
 10 serving as Washington TSA'S financial
 11 advisors?
 12 A I can't recall.
 13 Q But you certainly knew it as of
 14 this date?
 15 A Exactly. I certainly would
 16 have known it from reading this E-Mail.
 17 Q Did you ask Mr. Cook in or
 18 around December of 2008 if PFM had done a
 19 valuation of the reserve fund agreement for
 20 Washington TSA?
 21 A I can't recall. I don't
 22 believe so.
 23 Q Did you ask Mr. Cook at any
 24 time if PFM had done a valuation of the
 25 reserve fund agreement for Washington TSA?

1 Peter Shapiro
 2 Financial at this time?
 3 A We had -- we had attempted to
 4 do some estimates on the value.
 5 Q And how did Swap Financial
 6 Group go about doing estimates of the value
 7 prior to January 9, 2009?
 8 A The initial estimate would be
 9 something you could do just from your
 10 knowledge of the market on the face of it.
 11 And that is you could look at the agreement
 12 with the stated fixed rate that Lehman had
 13 committed to pay Washington of 4.484
 14 percent --
 15 (There was a discussion off the
 16 record.)
 17 A -- 4.484 percent, and know that
 18 in the current market, with rates much
 19 lower, that the agreement would be in the
 20 money to Washington, i.e., that Lehman
 21 would owe money on the agreement --
 22 Q So your --
 23 A -- just simply because rates
 24 had dropped sharply.
 25 Q So Swap Financial Group's

1 Peter Shapiro
 2 A I don't believe so.
 3 Q Did you ask anybody at
 4 Washington TSA that question?
 5 A I don't believe so.
 6 Q If you go to the very first
 7 E-Mail on the very first page, the third
 8 paragraph from Mr. Cook says -- refers
 9 to -- it says:
 10 "In the meantime, K&L Gates has
 11 drafted a motion for the court which I have
 12 attached. They will also be looking for a
 13 signed declaration from us as well as you
 14 stating that the agreement is, quote, in
 15 the money to us."
 16 Do you see that?
 17 A Yes.
 18 Q And prior to January 9, 2009,
 19 had Swap Financial Group done a valuation
 20 of the reserve fund agreement for
 21 Washington TSA?
 22 A We -- I believe we had done
 23 preliminary valuation work.
 24 Q And how did -- what preliminary
 25 valuation work had been done by Swap

1 Peter Shapiro
 2 initial assessment prior to January 9,
 3 2009, was an estimate based upon looking at
 4 the guaranteed rate and current rates in
 5 the market?
 6 A I said that was one way you
 7 could do it.
 8 Q How did Swap Financial Group do
 9 this initial estimate?
 10 A That was the initial thing when
 11 we looked at the agreement. You know,
 12 any -- anybody who looked at the agreement
 13 in our shop would have come to that
 14 conclusion. To try to refine the number
 15 would take more modeling.
 16 Q Did anybody look at any forward
 17 curves to make that initial estimate that
 18 Washington TSA would be in the money?
 19 A The models incorporate all
 20 market information, including forward
 21 curves.
 22 Q But this estimate was done not
 23 using a model, correct?
 24 A Which estimate?
 25 Q Prior to January 9, 2009, that

1 Peter Shapiro
2 you are discussing with me.
3 A I would have to look back at
4 the record to look at when we -- when we
5 first indicated any numbers to Washington
6 TSA or if you have, in any of the documents
7 which you have got, something that
8 indicates a number.

9 Q At this point, Mr. Cook is
10 asking you for a declaration stating the
11 agreement is in the money. Do you believe
12 you had told Mr. Cook by this point that
13 Washington TSA was in the money?

14 A Yes.

15 Q Okay. And that would have been
16 based on your initial estimate, or it would
17 have been based on a model?

18 A I can't recall it. Again, I
19 have to look at the documents to say when
20 the first, you know, model -- even rough
21 model base number was. I think you have
22 got those documents.

23 Q And when you say "those
24 documents," are you referring to screen
25 shots from Swap Financial's Principia

1 Peter Shapiro
2 Q Are you aware of any other
3 models that any staff members of Swap
4 Financial Group might have used to
5 determine the value of the Washington TSA
6 RFA.

7 A When you say "might have
8 used" --

9 Q Well, you are saying that they
10 principally would have used Principia, but
11 there might have been something else. What
12 would these other things have been that
13 were available to them?

14 A The firm has available to it
15 principally two other modeling systems it
16 uses it. But I am not -- here, I'm talking
17 about is general practice, not the
18 specifics in this case.

19 Q What other models systems does
20 Swap Financial Group use?

21 A We use Excel as a -- you know,
22 Excel is often used as what I refer to as a
23 scratch pad for trying to confirm --
24 confirm numbers and look at what things
25 would approximately be.

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1 Peter Shapiro
2 software?

3 A No, I am more referring to any
4 kind of internal -- you know, any kind of
5 internal or external communications that
6 you have. But you also have -- you know, I
7 know you also have an abundant number of
8 screen shots. You can probably see it
9 there, too.

10 Q And when you are referring to
11 the model that Swap Financial Group used,
12 that is the Principia software that we have
13 the screen shots from?

14 A It's Principia.

15 Q That's Principia?

16 A That's one. And then we, you
17 know, also can use other systems. But I
18 think Principia was the -- looking at what
19 has been produced, you know, again, I
20 don't -- I don't -- as I explained, I don't
21 look -- I don't run the model myself. But
22 based upon what you have seen in the
23 production, it looks like Principia was the
24 principal model that the other members of
25 my staff were using.

1 Peter Shapiro
2 You can, you know, get from a
3 very simplified to a very robust basis
4 using Excel, depending upon how much, you
5 know -- how much -- how much you want to
6 put into it. But, again, I am speaking in
7 generalities here, not on a specific case.

8 And then there is also a
9 Bloomberg-based system called Swap Manager,
10 and that's -- that's within the Bloomberg
11 system. And you can set this up and value
12 it as a swap using Swap Manager. You can
13 set a transaction of this type up.

14 So I'm talking in generalities
15 here.

16 Q And have you checked Swap
17 Financial's records to see if any Excel
18 spreadsheets showing a modeling or a value
19 of the Washington RFA?

20 A I either checked myself or
21 caused others to check.

22 Q So if there were such Excel
23 spreadsheets, they would have been produced
24 in this litigation subject to certain
25 privileges?

1 Peter Shapiro
 2 A Yes.
 3 Q And what about Swap Manager?
 4 Did anybody take any steps to see if there
 5 were any records within Swap Manager
 6 showing that it had been used for
 7 determining the value of the Washington TSA
 8 RFA?
 9 A I think that would have been
 10 covered under your prior question. You
 11 didn't isolate out saying not Swap Manager.
 12 Q My prior question was looking
 13 for Excel spreadsheets.
 14 A Just Excel?
 15 Q Yes.
 16 (There was a discussion off the
 17 record.)
 18 Q My prior question was simply
 19 asking if somebody had looked to see if
 20 there were any Excel spreadsheets in Swap
 21 Financial's possession reflecting a
 22 valuation or analysis of the Washington
 23 RFA.
 24 And you said that those had
 25 been looked for and produced if

1 Peter Shapiro
 2 Lauri, you have asked this question, many,
 3 many times in many different varieties --
 4 the person who would have -- who would have
 5 done the principal work on that was Lilian
 6 Chern.
 7 Q Looking at Shapiro Exhibit 33,
 8 which is the draft memorandum in the
 9 black-lined, when you proposed to
 10 Washington TSA that you could provide
 11 valuation and strategy and replacement
 12 services to Washington TSA, did you feel
 13 that Swap Financial Group was capable of
 14 providing those services?
 15 A Yes.
 16 Q That it had adequate staff and
 17 information to provide such services?
 18 A Yes.
 19 Q I am handing you a document
 20 that has been marked as Shapiro Exhibit 34,
 21 which, for the record, is a multi-page
 22 E-Mail, Bates stamped TSA 042624 through
 23 042626. The top E-Mail is dated
 24 February 23, 2009. I will give you a
 25 chance to look at this.

1 Peter Shapiro
 2 appropriate, correct?
 3 A Correct.
 4 Q Now, I am asking:
 5 Did anybody look at Bloomberg
 6 Swap Manager to see if there was any
 7 indication that it had been used to
 8 determine any value or analysis of the
 9 Washington RFA?
 10 A Yes.
 11 Q And if there were any records
 12 reflecting that, they would have been
 13 produced?
 14 A Correct.
 15 Q And do you recall whether there
 16 were any Swap -- any evidence that Swap
 17 Manager had been used to conduct any
 18 analysis of the Washington RFA?
 19 A I don't recall.
 20 Q Who checked Swap Manager to see
 21 if there was any evidence it had been used
 22 for the Washington RFA?
 23 A The person who did the
 24 principal checking and rechecking on
 25 this -- because, you know -- as you know,

1 Peter Shapiro
 2 (Exhibit No. Shapiro 34, E-Mail
 3 chain, top E-Mail dated 2/23/09 from
 4 Bob Cook to Peter Shapiro, cc to James
 5 Vergara and Debra Stephenson, Subject:
 6 Lehman, Bates Nos. TSA 42624 to 42626,
 7 is marked by the reporter for
 8 identification.)
 9 A I have looked at it.
 10 Q If you look at the second page
 11 of the E-Mail in the middle of the page,
 12 there is an E-Mail from Bob Cook to you on
 13 February 19, 2009, at 12:17 p.m.
 14 Do you see that?
 15 A Yes.
 16 Q And Mr. Cook is asking for
 17 "offline confirmation from you that this
 18 makes sense"; do you see that?
 19 A Yes.
 20 Q Do you recall having a
 21 conversation with Mr. Cook around
 22 February 19, 2009, to give him some
 23 "offline confirmation" about something
 24 related to the valuation of the RFA?
 25 A I can't tell what this is

1 Peter Shapiro
2 about, so it's very hard to refresh my
3 recollection on this.

4 Q You do recall having a
5 discussion in February of 2009 with
6 Mr. Cook about the valuation of the RFA?

7 A No. I don't.

8 Q You don't have any specific
9 recollections?

10 A No, five and a half years ago,
11 hard to remember.

12 Q So you don't know what he's
13 referring to when he is asking if it "makes
14 sense"?

15 A No.

16 Q The court reporter is handing
17 you a document that has been marked as
18 Shapiro Exhibit 35, which is, for the
19 record, Bates stamped TSA 42713 through
20 42715.

21 (Exhibit No. Shapiro 35, E-Mail
22 chain, top E-Mail dated 3/4/09 from
23 Bob Cook to Peter Shapiro, Subject:
24 Lehman, Washington State TSA, Bates
25 Nos. TSA 42713 to 42715, is marked by

1 Peter Shapiro
2 A No.
3 Q Do you recall having any
4 discussion with him about any market
5 concerns about fixing a termination date on
6 March 11, 2009?

7 A No.

8 Q Did you have any concerns about
9 fixing a -- about having a termination date
10 on March 11, 2009?

11 A You mean, are you asking me now
12 if --

13 Q Yes.

14 A -- I can remember five and a
15 half years ago if I had a concern about
16 that specific date?

17 Q Well, sitting here now, do you
18 have any concerns about a termination date
19 on March 11, 2009, for any reason?

20 MR. LAWRENCE: I'm sorry. Are
21 you asking now, or are you asking
22 then?

23 Q I said:

24 Sitting here now, do you have
25 any concerns about setting a termination

1 Peter Shapiro
2 the reporter for identification.)

3 Q It is -- and the top E-Mail is
4 dated March 4, 2009, at 3:50 p.m. I will
5 give you a chance to look at this.

6 A I finished going through it.

7 Q If you look at the first E-Mail
8 Mr. Cook is sending to you on March 4,
9 2009, he says:

10 "Do you have any concerns
11 market-wise with fixing the termination
12 date as of next Wednesday, March 11th?"

13 Do you see that?

14 A Yes.

15 Q Did you have any concerns about
16 fixing the termination date on March 11,
17 2009?

18 A I can't remember. I assume
19 there -- I don't know -- if you would have
20 shown me -- if there was a reply from me,
21 but I can't remember.

22 Q Do you know what he's asking
23 about, about whether you have "concerns
24 market-wise" with fixing the termination
25 date?

1 Peter Shapiro
2 date of March 11, 2009?

3 A I can't tell. In order to look
4 at a market concern on something, you have
5 to look at calendar information as of that
6 date, you know, that might create a
7 concern.

8 Q What would you need to look at
9 to see if there was a concern about
10 March 11, 2009?

11 A The market was closed.

12 Q Being like a --

13 A Holiday.

14 Q -- bank holiday?

15 A Yeah.

16 Q Any other concerns?

17 A Not that I can think of off the
18 top of my head. But, normally, when we are
19 looking on a forward basis at the calendar
20 for pricing dates, you know, we will look
21 and see if there are other factors that
22 could cause a concern.

23 Given that this is not an
24 actual trade, but rather a valuation, the
25 concerns are different than if you are

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1 Peter Shapiro
2 actually trying to put a transaction
3 through a market at a specific time or day.
4 But, you know, you want to consider various
5 factors.

6 Q What factors would you want to
7 consider for purposes of putting a value on
8 a trade?

9 A If it was purely for valuation.
10 The immediate one I would think is if the
11 market was closed, if there would be a
12 dearth of information on that date for some
13 reason.

14 Q So the market would be closed
15 for a holiday or maybe a Sunday or
16 something like that?

17 A Something like that.

18 Q Did you ask Mr. Vergara to
19 prepare a memorandum reflecting his
20 valuation of the RFA?

21 A Lauri, let me ask you to
22 clarify because, as you know, there are
23 multiple versions of memorandums that were
24 loss calculations. Are you -- is that what
25 you are asking about? Did I ask

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1 Peter Shapiro
2 and 2350. It appears to be a memorandum
3 from you to Bob Cook dated March 30, 2009?

4 A I finished going through this.

5 Q Was this a document prepared
6 initially by Mr. Vergara or by you?

7 A By Mr. Vergara.

8 Q And do you know if this was the
9 first draft of the memorandums that were
10 prepared regarding the valuation of TSA
11 reserve fund agreement?

12 A Do I know if this is the first
13 draft of this document or the first draft
14 of any type of valuation? I'm not sure
15 what you are asking.

16 Q There was a memorandum -- a
17 series of memoranda that you are referring
18 to as "the loss calculation memorandum,"
19 correct?

20 A Yes.

21 Q Do you know if this was the
22 first draft of that memoranda?

23 A This was not the loss
24 calculation memorandum. This was a
25 different version that was just looking at

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1 Peter Shapiro
2 Mr. Vergara to prepare that memorandum?

3 Q I am more talking in general
4 terms.

5 You asked Mr. Vergara to model
6 or value the transaction. Did you ask him
7 as part of that process to prepare
8 something in writing explaining what he had
9 done?

10 A Yes, he would do the first cut
11 on the -- on those specific memos that I
12 referenced.

13 Q And those "specific memos"
14 being the loss calculation memoranda?

15 A Correct.

16 (Exhibit No. Shapiro 36,
17 Memorandum dated 3/30/09 to Bob Cook
18 from Peter Shapiro, Subject:
19 Valuation of TSA's RFA with Lehman,
20 Bates Nos. SFG 2349 to 2350, is marked
21 by the reporter for identification.)

22 Q The court reporter has handed
23 you for the record a document that has been
24 marked as Shapiro Exhibit 36, which is a
25 two-page document, Bates stamped SFG 2349

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1 Peter Shapiro
2 valuation numbers.

3 Q And what's the distinction
4 between this version just looking at
5 valuation numbers and the loss calculation
6 memorandum?

7 A The loss calculation memorandum
8 was more rigorous.

9 Q And what is not rigorous about
10 this analysis?

11 A It doesn't go through each of
12 the components of spread in detail as the
13 loss calculation memorandum does.

14 Q Is the fundamental methodology
15 between this memorandum and the loss
16 calculation memorandum the same?

17 A The fundamental methodology
18 meaning the basic architecture that is not
19 looking at what the inputs are into spread
20 and the like. Yes.

21 Q That you would look by -- you
22 would start by looking at the cash flows of
23 the reserve fund agreement and analyzing
24 those?

25 A Correct.

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12 (Pages 300 to 303)

1 Peter Shapiro
2 Q And that's consistent between
3 this memorandum and the loss calculation
4 memorandum?
5 A Yes.
6 Q Do you know if a prior version
7 of this valuation memo exists?
8 A You should have everything.
9 Everything should have been produced --
10 Q But --
11 A -- unless it was -- you know,
12 unless it was held back under the privilege
13 log.
14 Q But sitting here today, do you
15 recall an earlier version of this document?
16 A I don't, but it's -- you know,
17 unless you are saying you have one -- you
18 are not trying to spring a trap on me here
19 in terms of having one that you are now
20 going to produce dramatically and say:
21 "How about this?"
22 Right?
23 Q I don't really have a trap set
24 up for this one, but I am just trying to
25 confirm with you that you don't recall a

1 Peter Shapiro
2 Q I know, but the way this
3 process works is I ask you questions.
4 A I understand. I was trying to
5 get away with asking you a question.
6 Q So did you discuss with
7 Mr. Vergara before this memorandum was
8 drafted regarding the methodology he
9 describes in this memorandum?
10 A Did I discuss the methodology
11 used in this memorandum? Yes.
12 Q With Mr. Vergara?
13 A Yes.
14 Q And you both agreed that it was
15 the appropriate methodology used to value
16 the reserve fund agreement?
17 A In general terms, yes, the
18 general architecture, the general approach,
19 yes.
20 Q And that general approach being
21 to model an interest rate swap and analyze
22 the cash flows of the reserve fund
23 agreement, correct?
24 A You are using "analyze the cash
25 flow." I would cut -- cut it off and say

1 Peter Shapiro
2 draft prior to this.
3 A I don't.
4 Q Did you discuss with
5 Mr. Vergara the methodology outlined in
6 this valuation memorandum before he drafted
7 it?
8 A You know, I can't tell. Is
9 this a -- the draft that went out to
10 Washington, or is this a prior draft that
11 was reviewed internally? I can't tell by
12 reading this.
13 Q I don't -- I don't know the
14 answer either?
15 A You can't tell. Okay.
16 And you don't know from what
17 you have got that's available to you
18 whether this was an attachment to an E-Mail
19 that would have gone to Bob Cook because
20 that would show that right away?
21 Q I don't have such information,
22 but I'm not sure you are answering my
23 question.
24 A No, I was asking you a
25 question.

1 Peter Shapiro
2 analyze it as though it were an interest
3 rate swap.
4 Q Okay. If you look at the third
5 paragraph of this memorandum, it starts by
6 saying:
7 "In order to value the reserve
8 fund agreement, we began by analyzing the
9 cash flows."
10 A Yes.
11 Q Do you agree with that
12 statement?
13 A That you begin by looking at
14 it -- what -- the cash flow being one guy
15 pays fixed, the other guy pays floating.
16 Q And then you model that fixed
17 and floating as if it were a swap?
18 A Correct.
19 Q Now, if you look at the second
20 page of this memorandum, the
21 next-to-the-last paragraph that
22 starts, "Given this dramatic widening," do
23 you see that?
24 A Yes.
25 Q The first sentence is:

1 Peter Shapiro
2 "Given this dramatic widening
3 in the credit spreads for municipal tobacco
4 bonds, we believe that the appetite to
5 provide a replacement reserve fund
6 agreement for TSA will be limited at best
7 and likely non-existent."

8 Do you agree with that
9 statement that Mr. Vergara wrote in March
10 of 2009?

11 A I believe, if you look through
12 the record, you will see that later on
13 there is a reworded version of that very
14 sentence.

15 Q So you don't -- you don't agree
16 with that?

17 A I thought we needed to
18 strengthen that sentence, and I put in, I
19 believe, the words, "severely limited."

20 Q Okay. And then the next
21 sentence is:

22 "And replacement counterparty
23 will likely assess the significant credit
24 charge and profit component to step into
25 the shoes of LBSF and face TSA."

1 Peter Shapiro
2 know, initial estimate. As you will see
3 and the record shows, I subsequently came
4 back and sharply questioned that
5 assumption: "Where did it come from," if
6 you remember. You can -- you will see this
7 in the record.

8 Q So this was Mr. Vergara's
9 initial assessment of what the spread to
10 LIBOR should be based upon his experience,
11 correct?

12 A I don't know what he based it
13 on.

14 Q But it was Mr. Vergara's
15 assessment?

16 A Yes.

17 Q And you disagreed with that
18 assessment?

19 A I wanted backup on it. I
20 didn't disagree with it. I said:
21 "How did you get that number?"

22 We have got to be rigorous here."

23 Q Did you agree with that number?

24 A I had no basis to say I agreed
25 or disagreed with it without more work

1 Peter Shapiro
2 Do you see that?

3 A Yes.

4 Q Do you agree with that
5 statement that Mr. Vergara included?

6 A Yes.

7 Q And then the next sentence --

8 A I would -- you know, I would
9 one qualifier, of course -- "any
10 replacement counterparty" -- if one could
11 be found, which, in the prior sentence, we
12 clearly say it's very, very unlikely.

13 Q And then the last sentence of
14 that paragraph, Mr. Vergara writes:

15 "For these reasons, therefore,
16 we are valuing the floating leg of the swap
17 for TSA's reserve fund agreement at LIBOR
18 minus 1.5 percent."

19 Correct?

20 A Right.

21 Q And did you agree that, for the
22 reasons stated in that paragraph, that the
23 floating leg of the swap should be valued
24 at LIBOR minus 150 basis points?

25 A That was James -- James's, you

1 Peter Shapiro
2 being done on it.

3 Q What additional work did you
4 ask Mr. Vergara to do?

5 A I think you will see it in the
6 record.

7 Q But I am asking you to tell me:
8 What additional work did you
9 ask Mr. Vergara to do?

10 A I wanted -- I wanted to look at
11 the spread components in detail.

12 Q And the "spread components"
13 being profit and credit?

14 A Yes, as we have gone over in
15 huge length in prior deposition -- profit,
16 credit, deliverable spread.

17 Q And --

18 A And when we say "profit" and
19 "credit," we are including within that all
20 of the various miscellaneous spread
21 components in terms of the administrative
22 costs the dealer takes on, the hedge costs
23 and the like; so, you know, there is --
24 there is a accumulation of issues that goes
25 into the dealer spread here.

1 Peter Shapiro
2 Q And at this point in time,
3 Mr. Vergara thought that profit and credit
4 comprised 150 basis points?
5 MR. LAWRENCE: Object to the
6 form of the question. Calls for
7 speculation.
8 A I couldn't read his mind.
9 Q But that's what he wrote here?
10 MR. LAWRENCE: Objection.
11 Argumentative.
12 A You can read it as well as I
13 can.
14 Q Do you understand that 150
15 basis points to include both profit and
16 credit components?
17 MR. LAWRENCE: Objection.
18 Calls for speculation.
19 A I really -- again, I can't
20 tell.
21 Q Did you ever discuss it with
22 Mr. Vergara, whether that 150 basis points
23 included both profit and credit?
24 A I think the record will show I
25 even put it in writing.

1 Peter Shapiro
2 the US history.
3 Q So if he had put LIBOR minus
4 1.47 percent, that would have given you
5 more comfort?
6 MR. LAWRENCE: Objection.
7 Argumentative.
8 A It would have made me go back
9 and say, "Where did you get the number
10 from?"
11 The 150 number, you know, to
12 me, I look at it on the page, and that's --
13 that's as I said a yellow flag.
14 Q Did you have any other concerns
15 about the 150 number?
16 A What kind of concerns would you
17 mean?
18 Q You were concerned that it
19 looked like too round of a number, and you
20 wanted to assess it more rigorously,
21 correct?
22 A I had one concern --
23 accuracy -- that it be done rigorously and
24 accurately and fairly.
25 Q And you didn't think the LIBOR

1 Peter Shapiro
2 Q And what did you put into
3 writing?
4 A I put the word:
5 "Whoa, where did you get this
6 number from," or "whoa" and some additional
7 words that were indicating that.
8 Q And why did you write "whoa"?"
9 A Because it looked like -- you
10 know, one of -- one of the things you get
11 in practice in this business is you start
12 to look at numbers and you say:
13 "Where did that come from?"
14 One of the, you know, yellow
15 flags is when a number is very round. 150
16 is a very round number. Rarely did -- do
17 rigorous estimates come out very round.
18 Q So you were concerned that it
19 was too round of a number?
20 A I was concerned that it was
21 just a number that you he was pulling out
22 of air based upon feel. And that was
23 insufficient for the rigor that would be
24 needed for making a claim against the
25 Lehman estate in the largest bankruptcy in

1 Peter Shapiro
2 minus 150 basis points was any of those?
3 A I couldn't tell. There was no
4 backup for it.
5 Q And if you look at the last
6 paragraph of this memorandum, it says:
7 "As of March 25, 2009, the
8 value of TSA's reserve fund agreement with
9 LBSF was \$23,664,383 in TSA's favor."
10 Do you see that?
11 A Yes.
12 Q And did -- and Mr. Vergara
13 determined that number using the model?
14 A Correct.
15 Q And he used the assumption of
16 LIBOR minus 150 basis points?
17 A It's self-evident from the
18 memo.
19 Q That he indeed used LIBOR minus
20 150 to reach that valuation?
21 A Yes.
22 Q And assuming a maturity of 2042
23 for the reserve fund agreement?
24 A At this point that was our
25 understanding.

1 Peter Shapiro
2 (Exhibit No. Shapiro 37, E-Mail
3 chain, top E-Mail dated 4/20/09 from
4 Peter Shapiro to James Vergara,
5 Subject: TSA memo, Bates Nos. SFG
6 2370 backwards to 2369, including 2371
7 and 2368, is marked by the reporter
8 for identification.)

9 Q The court reporter has handed
10 you a document that has been marked as
11 Shapiro Exhibit 37, which is an E-Mail and
12 an attachment. Its Bates range is SFG
13 2370 -- it's stapled -- it's backwards. So
14 it starts 2368 through 2371.

15 So the -- we stapled the
16 attachment behind putting them out of Bates
17 number order.

18 A I am deeply troubled by the
19 stapling issue.

20 Q We can fix it if you'd like.

21 A No.

22 Q I will give you a chance to
23 look at this; and then, when you are ready,
24 I will have some questions.

25 A Okay. Sure.

1 Peter Shapiro
2 will probably get them."
3 Do you see that?
4 A Yes.
5 Q Meaning that you went directly
6 into the document he had sent you and
7 revised some of the words, correct?
8 A Without clicking the "track
9 changes" button in Microsoft word to show
10 what I had changed. I obviously started to
11 change them and just said, you know, "Read
12 through. You will pick it up."

13 Q And then you also inserted a
14 number of comments in brackets to
15 Mr. Vergara?

16 A Right.

17 Q And aside from this E-Mail
18 exchange, did you have discussions with
19 Mr. Vergara about his draft memorandum that
20 we saw in Shapiro Exhibit 36?

21 A It looks -- and I just have to
22 say how it looks from this discussion. I
23 can't -- I can't recall whether we had a
24 follow-up discussion as I sit here. It
25 would be hard to believe that I didn't.

1 Peter Shapiro
2 I am ready.

3 Q And if you look at the --

4 A By the way, for the record, I
5 think you stapled it correctly. I think
6 you numbered it incorrectly.

7 Q I wasn't the numbering, so you
8 will have to take that up with
9 Mr. Lawrence.

10 A Okay.

11 Q If you look at the E-Mail, in
12 the middle of the first page on Sunday,
13 April 19, 2009, 4:32, you are writing to
14 Mr. Vergara and telling him you're finally
15 getting to this.

16 Do you see that?

17 A Yes.

18 Q Was this your first set of
19 comments on the draft memorandum that we
20 looked at at Shapiro Exhibit 36?

21 A I believe so.

22 Q And you continue by saying:

23 "I have made a bunch of
24 language changes to it, which I didn't
25 red-line; but, if you read through it, you

1 Peter Shapiro

2 Q But you don't recall the
3 specifics of any such discussion?

4 A No.

5 Q But the -- is it fair to say
6 that the thrust of your comments in this
7 E-Mail and the attachment is that you are
8 pushing Mr. Vergara to take a more rigorous
9 and defensible approach to the valuation?

10 A Yes, I think I am very clear in
11 here.

12 Q As you said, it's important to
13 get that valuation correct, right?

14 A Yes, and I even say -- Lauri,
15 you will be entertained by how bad my
16 estimate was in terms of the time it would
17 take you guys to contest this.

18 I say:

19 "Remember, we have to be
20 prepared to defend this six months or, who
21 knows, two years from now."

22 At that point, I didn't
23 envision that it would be five and a half
24 years from "now."

25 Q But the point is that to do

1 Peter Shapiro
 2 this rigorously and to make sure you got it
 3 right was quite important?
 4 A Absolutely. Our discipline
 5 always was:
 6 How do we do this in a fair and
 7 reasonable way?
 8 It was very explicitly
 9 spilled -- spelled out by me repeatedly to
 10 our staff, that:
 11 "There aren't good guys and bad
 12 guys here. Lehman had a bankruptcy. They
 13 went into default. We have to value this
 14 fairly. We will have clients on both sides
 15 of the Lehman bankruptcy. And it's just
 16 fair that it be done right."
 17 When I mean "both sides,"
 18 clients who owe money to the Lehman estate
 19 and clients who are owed money by the
 20 Lehman estate.
 21 So the important thing was
 22 doing it fairly and reasonably and
 23 defensible, knowing that Lehman was likely
 24 to spend millions -- we didn't realize
 25 hundreds of millions -- on legal -- you

1 Peter Shapiro
 2 Q And if you continue to the
 3 start of the fourth paragraph in Shapiro
 4 Exhibit 37, it looks like you added that
 5 sentence as well:
 6 "The use of a swap to value
 7 agreements of this type is the broadly
 8 accepted market methodology"?
 9 A Yes.
 10 Q And you did, in fact, add that
 11 language?
 12 A That's -- yes, that was my
 13 English teacher in me because James began
 14 the paragraph -- the original draft with
 15 the word, "This," which to me is bad
 16 writing. When you are starting a new
 17 paragraph, you should explain what the
 18 "This" is.
 19 Q You also added the notion that
 20 valuing it in this manner is the way -- is
 21 the broadly accepted market methodology,
 22 correct?
 23 A Correct.
 24 Q And then, if you turn to the
 25 second page of the memorandum, the

1 Peter Shapiro
 2 know, legal expenses to challenge.
 3 Q If you look at the attached
 4 memorandum that you revised, the third
 5 paragraph, the last sentence of that, talks
 6 about -- tell me when you are there.
 7 A Yes.
 8 Q It says:
 9 "To value the cash flows on the
 10 agreement, the appropriate method is to use
 11 a similar interest rate swap, in which one
 12 payer, i.e., Lehman would pay a fixed rate
 13 of 4.484 percent, and the other payer would
 14 pay a floating rate."
 15 Do you see that?
 16 A Correct.
 17 Q And is that language you added
 18 to the memorandum?
 19 A Let's compare it if we could to
 20 Exhibit 36, just so we are clear we are
 21 looking at this. It looks clear that I
 22 would have added that.
 23 Q And if you continue to the --
 24 A Just to -- just to make it
 25 clear to the client what was going on.

1 Peter Shapiro
 2 penultimate paragraph, that is where you
 3 have the "whoa" that you referred to
 4 before.
 5 Do you see that?
 6 A Yes.
 7 Q Okay. And did Vergara's
 8 valuation come as surprise to you, of LIBOR
 9 minus 150 basis points?
 10 A By "surprise" do you mean did I
 11 think it was -- in terms of its magnitude
 12 surprising, that is, that it was too big,
 13 too small? No. That was not what
 14 surprised my.
 15 The "whoa" is:
 16 "Back this up. Defend this.
 17 Explain how you got to that."
 18 It didn't say to me:
 19 "Gee, that's too small,"
 20 or, "Gee, that's too big."
 21 It's just:
 22 "Where did you get this number
 23 from? Did you pull it out of a hat?"
 24 Q And did you ever ask him where
 25 he got the number from?

1 Peter Shapiro
2 A I just asked him to back it up.
3 I said to him, "How do you" -- to answer
4 your question directly, did I ask him how
5 he got the number, right after the word
6 "whoa" it says:

7 "How" did you -- "How do you
8 get this number?"

9 So the answer is, yes, I asked
10 him.

11 Q And what was his answer?

12 A His answer was to go back and
13 do it more rigorously.

14 Q Do you recall any other
15 discussion as to where he got the number
16 LIBOR minus 150 basis points?

17 A No.

18 (Exhibit No. Shapiro 38, E-Mail
19 with attachment, E-Mail dated 4/21/09
20 from James Vergara to Peter Shapiro,
21 Subject: TSA Loss Calc, Bates Nos.
22 SFG 2381 to 2384, is marked by the
23 reporter for identification.)

24 Q The court reporter has handed
25 you a document that has been marked as

1 Peter Shapiro
2 Swap Financial staff as to the revisions
3 that were taking place in the memorandum at
4 this time?

5 A I don't.

6 Q Do you -- look at the attached
7 memorandum. The "Concerning" line has been
8 changed from, "Valuation of TSA's reserve
9 fund agreement with Lehman Brothers Special
10 Financing, Inc.," which is seen in Shapiro
11 Exhibit 37, to, "Calculation of loss for
12 TSA's reserve fund agreement with Lehman
13 Brothers Special Financing, Inc."

14 Do you see that?

15 A Yes.

16 Q Why was that change made?

17 A I don't remember.

18 Q Do you believe that to be an
19 accurate description of what's contained in
20 this memorandum, a calculation of loss for
21 TSA's reserve fund agreement?

22 A "Loss" is a defined term.
23 "Loss," I believe, needs to include an
24 additional component of the unpaid amounts;
25 that is, you know, Lehman's failure on the

1 Peter Shapiro
2 Shapiro Exhibit 38, which is a cover E-Mail
3 and an attached memorandum.

4 The cover E-Mail is dated
5 April 21, 2009. It's Bates stamped for the
6 record SFG 2381 through 2384.

7 Let me know when you have had a
8 chance to review this document.

9 A Yes, completed reading it.

10 Q Okay. Do you recognize this
11 revised version of the memorandum?

12 A Yes.

13 Q And this is a revised version
14 reflecting your comments that we saw in
15 Shapiro Exhibit 37?

16 A I believe it certainly would
17 have reflected those to make it more
18 rigorous to go into the spread components
19 in detail.

20 Q Do you recall any drafts of the
21 memorandum between what we looked at in
22 Shapiro Exhibit 37 and Shapiro Exhibit 38?

23 A I don't.

24 Q Okay. Do you recall any
25 discussions with Mr. Vergara or any other

1 Peter Shapiro
2 agreement between the time of its last
3 deliveries and -- and the valuation date.

4 And I don't think this includes
5 that, so this is -- this is missing that
6 component. It may be missing some other
7 things if I went back over it. But that's
8 the one that jumps off the page to me.

9 Q But the purpose of this
10 memorandum was to calculate loss of TSA's
11 reserve fund agreement?

12 A Yes, to calculate -- to
13 calculate it as of that date. You know,
14 we -- there is a slang expression that you
15 use in the swap market, that is, a clean
16 valuation or a dirty valuation.

17 "Dirty" sounds like it's
18 somehow nefarious. It's not in any way.
19 It's just that "dirty" would include the
20 accrued interest or unpaid amounts. And
21 this -- this only gives the clean, you
22 know, not -- not the dirty valuation.

23 Q Because it doesn't include
24 those amounts from the date of the last
25 delivery to the termination date, you

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1 Peter Shapiro
2 believe that's missing from this
3 memorandum, correct?

4 A Yes, it's short. It needs to
5 have that in there to meet the full
6 definition of "loss."

7 Q If you look at the first
8 paragraph, the second -- starting with the
9 second sentence, "Under the terms of the
10 RFA," do you see that?

11 A This is -- second paragraph of
12 the first page of the memo.

13 Q First paragraph, second
14 sentence starting, "Under the terms."

15 A I'm sorry. It says, "Under the
16 terms of the RFA" in the beginning of the
17 second paragraph, too.

18 Q Do you see where I am?

19 A Yes.

20 Q First paragraph, second
21 sentence?

22 A Yes.

23 Q That from there to the end of
24 the paragraph has been added in Shapiro
25 Exhibit 38. Do you know why that was

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1 Peter Shapiro
2 when quoting from the definition of the
3 termination amount?

4 A No.

5 Q Do you know why he didn't
6 include the section that said, "Any
7 calculation made by Washington TSA must be
8 made as if it were Lehman" when describing
9 the termination process?

10 A No.

11 Q If you go to the fourth
12 paragraph of Shapiro Exhibit 38, it
13 starts, "In order to calculate TSA's Loss,"
14 with a capital "L"; do you see that?

15 A In the fourth paragraph, yes.

16 Q And if you look at the third
17 paragraph of Shapiro Exhibit 37, to put
18 your finger on that.

19 A Okay. This is 37. Yep.

20 Q If you compare those first two
21 sentences from Shapiro Exhibit 38 to the
22 fourth paragraph in Shapiro Exhibit 37,
23 Shapiro Exhibit 38 says:

24 "In order to calculate TSA's
25 Loss," with a capital "L," "we begin by

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1 Peter Shapiro
2 added?

3 A If I compared that with which
4 one?

5 Q Shapiro Exhibit 37.

6 A Okay. Let me just compare.
7 Where is the equivalent section 37, Lauri,
8 that you are -- that you are comparing this
9 against?

10 Q There is not an equivalent
11 section. The section regarding the
12 definition of the "termination amount" is
13 new in Exhibit 38.

14 A Yes. I don't know why -- you
15 know, I would just be speculating.

16 Q That was not a comment you gave
17 to Mr. Vergara, to add a reference to the
18 definition of the "termination amount"?

19 A I can't recall.

20 Q Do you know why -- I assume
21 Mr. Vergara drafted this draft that we are
22 looking at in Shapiro Exhibit 38?

23 A Yes.

24 Q Do you know why Mr. Vergara did
25 not mention the market quotation process

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1 Peter Shapiro
2 analyzing the RFA cash flows."
3 Do you see that?

4 A Yes.

5 Q If you look at Shapiro
6 Exhibit 37, it says at the beginning of the
7 third paragraph:

8 "In order to value the reserve
9 fund agreement, we begin by analyzing the
10 cash flows."

11 Do you see that?

12 A Yes, I do.

13 Q So depending -- it doesn't make
14 any difference whether you are calculating
15 TSA's loss or whether you are determining
16 the value of the reserve fund agreement,
17 you start by analyzing the reserve fund
18 agreement's cash flows, correct?

19 MR. LAWRENCE: Objection.
20 Argumentative.

21 Q You can answer.

22 A I would say that's correct.

23 Q And that there are two cash
24 flows that need to be analyzed as we
25 discussed, the fixed leg and the floating

1 Peter Shapiro
2 leg, correct?
3 A Correct.
4 Q Regardless of whether you are
5 valuing the reserve fund agreement or
6 calculating loss, correct?
7 A Right.
8 Q If you go to the fifth
9 paragraph of the memorandum -- sorry -- of
10 Shapiro 38, which is on page SFG 2383, it's
11 the first full paragraph on that page. It
12 says, "The use of a LIBOR plus spreadsheet
13 analysis" -- do you see that?
14 A Yes.
15 Q And then if you look at the
16 fourth paragraph of Shapiro Exhibit 37, it
17 starts -- it says:
18 "The use of a swap to value
19 agreements of this type is a broadly
20 accepted market methodology."
21 Versus Shapiro Exhibit 38 says:
22 "The use of a LIBOR plus spread
23 analysis with an interest rate swap to
24 value agreements like the RFA is the
25 broadly accepted market methodology."

1 Peter Shapiro
2 read, make it look better.
3 Q Okay. And that's something --
4 A We weren't paid by the word, so
5 we didn't have any incentive to make it
6 longer.
7 Q And that would be something
8 Mr. Vergara did, adding those headings?
9 A Yes.
10 Q If you look at the bottom of
11 the second page of the memorandum, which is
12 Shapiro Exhibit 38, Bates stamp SFG 2383,
13 the very last line, he -- well, the very
14 last paragraph, he's talking about the
15 credit charge for the RFA.
16 Do you see where I am at?
17 A "In order to assess a proper
18 credit charge"?
19 Q Yes.
20 A Yes, I do see that.
21 Q And Mr. Vergara discusses the
22 spread between the Washington TSA bonds and
23 the Bloomberg 30-year General Purpose
24 Revenue Bond Index, correct?
25 A Correct.

1 Peter Shapiro
2 Do you see that?
3 A I do see that.
4 Q Why was that change made
5 between Exhibit 37 and Exhibit 38?
6 A I can't recall.
7 Q Do you recall any discussion
8 about that change?
9 A Not at all.
10 Q And if you look at Exhibit 38,
11 in general, compared to Exhibit 37, we see
12 new headings being added like "Commercial
13 Paper Spreads" and "Charges For Municipal
14 Tobacco Credit," correct?
15 A Yes.
16 Q And why are those headings
added?
17 A I would only be speculating
about why headings were added.
18 Q Was there a substantive reason,
19 or was it more of an organizational
20 decision?
21 A I believe it would be -- and I
22 am speculating here -- it would be more
23 organizational to make the memo easier to

1 Peter Shapiro
2 Q And he says that that spread is
3 4.29 percent, correct?
4 A On March 25th.
5 Q Yes. And then he writes:
6 "For purposes of our analysis
7 on March 25th, we have conservatively used
8 a credit spread of 3 percent."
9 Do you see that?
10 A Correct.
11 Q And was that Mr. Vergara's
12 conclusion or your conclusion?
13 A That was Mr. Vergara's
14 conclusion, I believe.
15 Q And what was that conclusion
16 based on?
17 A I know it came out in the final
18 version -- and that was not included, so,
19 you know -- again, you know, I am not
20 remembering as we sit here. But, you know,
21 it seemed to be a random assumption. We
22 needed to be rigorous, not have a random
23 assumption.
24 Q And you communicated that to
25 Mr. Vergara, that it seemed to be a random

1 Peter Shapiro
2 assumption?
3 A As I said, I can't recall.
4 Q Did Mr. Vergara adjust the
5 number of the credit spread himself, or did
6 he stay with 3 percent?
7 A In the subsequent analysis, he
8 adjusted it.
9 Q Okay. And you don't know why
10 he adjusted that?
11 A Because we took out this
12 3 percent ceiling.
13 Q And why did you take out the
14 3 percent ceiling?
15 A I can't recall as I sit here.
16 You know, I just gave you to the best of my
17 ability what I think would have gone on.
18 Q Was it an adjustment he made?
19 A Was what an adjustment he made?
20 Q You said the adjustment to take
21 out the 3 percent ceiling.
22 A I can't recall what the exact
23 sequence was. But the 3 percent was taken
24 out, and then he based it upon the actual
25 spread, not putting a 3 percent cap in.

1 Peter Shapiro
2 A The word "conservative" could
3 have different meanings to different
4 people. It understates the credit charge
5 compared to what the bond market showed.
6 The bond market showed 4.29.
7 Q And that's your conclusion that
8 it understates the credit charge?
9 A As compared to the bond spread.
10 Q And did you communicate that to
11 Mr. Vergara?
12 A Again, I already answered and
13 said I can't recall the conversations.
14 (Previously Marked Exhibit No.
15 Lehman 15, 4/21/09 Memorandum from
16 Peter Shapiro, James Vergara to Bob
17 Cook, Concerning: Calculation of
18 Loss, Bates Nos. TSA 21616 to 21618 is
19 introduced into the proceedings.)
20 Q I am showing you a document
21 that has been previously marked as Lehman
22 Exhibit 15, which is a multi-page
23 memorandum, dated April 21, 2009, Bates
24 stamped TSA 021616 through 021618. I'll
25 give you a chance to look at it. Let me

1 Peter Shapiro
2 Q And that was a decision
3 Mr. Vergara made, to take out the 3 percent
4 ceiling?
5 A It would have been -- again, I
6 am not -- I am -- it calls for me to
7 speculate. I am not recalling.
8 Q You don't recall having any
9 discussions with Mr. Vergara about the
10 3 percent ceiling?
11 A No.
12 Q And you don't recall whether --
13 A It's all -- you know, as I said
14 again and again, our emphasis was doing
15 this rigorously, based upon -- you know,
16 upon actual data that we had in the market.
17 Q And you don't recall whether
18 the decision to change the credit spread
19 from 3 percent to 4.29 percent was
20 Mr. Vergara's or yours?
21 A No.
22 Q And do you think a 3 percent
23 credit spread, assuming that bond spread of
24 4.29 percent, is a conservative
25 determination of a credit charge?

1 Peter Shapiro
2 know when you are comfortable.
3 A Thank you.
4 I finished going through it.
5 Q I noticed as you were going
6 through it you were comparing it to Shapiro
7 Exhibit 38?
8 A Very perceptive.
9 Q And there are not very many
10 changes between Shapiro Exhibit 38 and
11 Lehman Exhibit 15; is that fair?
12 A Depends on how you -- what you
13 mean by "very many," but I only saw a few.
14 Q And Lehman Exhibit 15, I
15 believe you testified in earlier
16 depositions, that this is the version of
17 the memorandum that went to the Washington
18 Tobacco Settlement Authority, correct?
19 A I believe so.
20 Q Okay. And do you recall
21 whether the memorandum in Lehman
22 Exhibit 15, dated April 21, 2009, was, in
23 fact, sent to Washington Tobacco Settlement
24 Authority on or around April 21, 2009?
25 A Do I recall if it was, just as

1 Peter Shapiro
2 I am sitting here? I have to look back at
3 the record.
4 Q Do you have any doubt that it
5 was sent to them on or about that date?
6 A Not as we sit here. I assume
7 you have an E-Mail that would go along with
8 it or something like that.
9 Q Do you have any reason to doubt
10 that it wasn't sent to them on or around
11 April 21, 2009?
12 A No, it makes sense.
13 Q If you look at Shapiro
14 Exhibit 38, Mr. Vergara is sending you the
15 draft of the memorandum at 3:12 p.m.; do
16 you see that?
17 A Correct.
18 Q So any changes that were made
19 between Shapiro Exhibit 38 and the version
20 in Lehman Exhibit 15 that was sent to the
21 client would have been made in a matter of
22 hours on April 21, 2009; is that fair?
23 A That's correct.
24 (There was a discussion off the
25 record.)

1 Peter Shapiro
2 negative 4.29 percent, correct?
3 A Yes.
4 Q And that's a change from
5 Shapiro Exhibit 38, where, in that same box
6 on the last page, it shows a credit spread
7 of a negative 3 percent, correct?
8 A Yes.
9 Q And that change is consistent
10 with the removal of that sentence at the
11 end of the tobacco credit section, correct?
12 A Exactly.
13 MS. SAWYER: If we could take
14 just a short break, I would appreciate
15 it.
16 MR. LAWRENCE: Sure.
17 THE VIDEOGRAPHER: The time is
18 11:30 a.m.; we are going off of the
19 record.
20 (There was a discussion off the
21 record.)
22 (A break is taken.)
23 THE VIDEOGRAPHER: The time is
24 11:43 a.m., October 16, 2014. This is
25 tape number two in the videotaped

1 Peter Shapiro
2 Q If you look at Lehman
3 Exhibit 15 as compared to Shapiro
4 Exhibit 38, you will see under the section
5 "Charges For Municipal Tobacco Credit," the
6 very last sentence from Shapiro Exhibit 38
7 has been removed, correct?
8 A Yes.
9 Q And nothing has been put in its
10 place?
11 A No.
12 Q So you have removed -- the
13 sentence has been removed that:
14 "For purposes of our analysis
15 on March 25th we have conservatively used a
16 credit spread of 3 percent."
17 Correct?
18 A Correct.
19 Q And then instead you used a
20 credit spread of 4.29 percent in Lehman
21 Exhibit 15, correct?
22 A Correct.
23 Q And that change is reflected on
24 the third page of Lehman Exhibit 15 in the
25 chart showing that the credit spread is a

1 Peter Shapiro
2 deposition of Mr. Peter Shapiro.
3 (Exhibit No. Shapiro 39, Claim
4 Amount Document, Bates No. SFG 2348,
5 is marked by the reporter for
6 identification.)
7 Q The court reporter has handed
8 you a document that has been marked as
9 Shapiro Exhibit 39. It's a single-page
10 document, printout of an Excel spreadsheet.
11 Its Bates stamp is SFG 02348. Not too much
12 information -- but I will ask you if you
13 recognize this document.
14 A I don't.
15 Q Do you know what this document
16 is at all?
17 A Are you asking me, even though
18 I don't recognize it, do I know what it is?
19 Q Yes.
20 A If I don't recognize it -- I'm
21 not sure the distinction you are making
22 between knowing what it is.
23 Q Do you know -- do you know the
24 information -- what the information is that
25 is being communicated in this spreadsheet?

1 Peter Shapiro
2 A Could I figure it out by
3 looking at it?
4 Q Sure. Can you figure it out?
5 A I think so.
6 Q Okay.
7 A Some of the numbers.
8 MR. LAWRENCE: Well, I would
9 ask you not to speculate.
10 A Okay.
11 Q Is this a -- do you recall a
12 spreadsheet being kept at Swap Financial
13 Group that contained information as
14 reflected in Shapiro Exhibit 39?
15 A No.
16 Q Do you recall preparing a
17 spreadsheet yourself that contained
18 information such as that found in
19 Exhibit 39?
20 A No.
21 Q At the top, it says "Washington
22 TSA and current claim."
23 Do you see that?
24 A Yes.
25 Q Do you know what that's

1 Peter Shapiro
2 Q Did Swap Financial Group ever
3 calculate what they expected the Lehman
4 valuation of the RFA to be?
5 A Somebody prepared this
6 spreadsheet. So when you say Swap
7 Financial, I assume what you mean:
8 Did anyone in Swap Financial
9 calculate this? Obviously, somebody did.
10 Q And so you believe that to be a
11 calculation of what the expected Lehman
12 valuation of the RFA would be?
13 A I can't tell by "Expected
14 Lehman" whether that meant what we expected
15 Lehman to calculate, or what, you know.
16 Q What else do you think it might
17 be?
18 MR. LAWRENCE: Objection.
19 Calls for speculation.
20 A What else could it be besides
21 what? You know, it's hard to tell.
22 Q And do you recall any
23 discussions at -- with Washington TSA about
24 what you expected Lehman to value the
25 reserve fund agreement at?

1 Peter Shapiro
2 referring to?
3 A I can -- the numbers say
4 45,715,055. And then it says "L minus
5 387.4."
6 Q And you have no idea what that
7 means?
8 A "L minus 387.4" would normally
9 mean LIBOR 387.4.
10 Q And do you know what "current
11 claim" refers to?
12 A Well, let's take a look, Lauri,
13 at Lehman 15. And if we look on
14 page three, it uses negative spread of
15 387.4. And the number here is forty-five
16 seven one five five -- it's very close to
17 the number in Lehman 15. That's all I can
18 say.
19 Q The next line is "Expected
20 Lehman" 11 million 589 -- 11,589,000, and
21 then "L minus 20.0"; do you see that?
22 A Yes.
23 Q Do you know what that lines
24 refers to?
25 A No.

1 Peter Shapiro
2 A I do not recall.
3 Q Do you recall any discussions
4 with Washington TSA or internally at Swap
5 Financial Group that Lehman would value the
6 reserve fund agreement at LIBOR minus
7 20 basis points?
8 A No.
9 Q Do you recall having that
10 discussion with anyone at Swap Financial
11 Group about Lehman valuing the reserve fund
12 agreement at LIBOR minus 20 basis points?
13 A No.
14 Q Did Swap Financial Group ever
15 value the reserve fund agreement assuming a
16 spread to LIBOR of LIBOR minus 20 basis
17 points?
18 A Did who?
19 Q Swap Financial Group.
20 A Someone in the firm.
21 Evidently, from this spreadsheet, someone,
22 you know, did a scenario at LIBOR minus 20.
23 Q And so you believe that the
24 11,589,000 number is equivalent to LIBOR
25 minus 20?

1 Peter Shapiro
2 A I can't do that math in my
3 head, but it looks like it would be in that
4 range.
5 Q So you believe there is some
6 sort of relationship between those two
7 numbers?
8 A I would guess.
9 Q And then the next two lines say
10 "net"; and then it says 22,857,528. And
11 the next line is 5,794,500.
12 Do you know what those are?
13 A I can't tell. You know, "net"
14 looks like it's approximately twice the
15 number above it. But it's not exactly
16 twice. You could tell that. And the
17 blank, who knows what that is? Is it half?
18 It's not.
19 Q Is the 22,857,528, is that half
20 of 45,715,055?
21 A I would have to do the math.
22 Q Do you have a calculator?
23 A I do. Would you like me to
24 perform the calculation?
25 Q Yes, please.

1 Peter Shapiro
2 Q You don't -- you don't recall
3 any discussion of any net numbers being
4 calculated at Swap Financial Group?
5 A I don't even know what "net"
6 means in this context.
7 Q And you have no idea who
8 prepared this spreadsheet at Swap Financial
9 Group?
10 A No.
11 Q But someone did prepare this
12 spreadsheet at Swap Financial Group?
13 A Rarely do spreadsheets spring
14 up on their own, so I would have to say it
15 would have been prepared by a human.
16 Q And then the next category is
17 "Negotiating Range"; do you see that?
18 A Yes.
19 Q It has four numbers. It has 15
20 million, 8 million, 30 million, and
21 16 million.
22 Do you see that?
23 A Yes.
24 Q What do those negotiating range
25 numbers refer to?

1 Peter Shapiro
2 A Okay. Please note I am using a
3 very sophisticated piece of technology here
4 that is a Samsung cell phone.
5 So the question was: Is it
6 half the current claim number, right?
7 Q Is the first net number half of
8 the current claim number?
9 A So let's take 22,857,528 times
10 two, and it gives me 45,715,056. So it's
11 within a quibble of half.
12 Q And the next net number of
13 \$5,794,500, is that half of the expected
14 Lehman number?
15 A Let's take a look. Okay. I
16 will do it in the reverse this time. Let's
17 do 11,589, okay, divide by two. And it
18 gives me 57,945, exactly half.
19 Q Do you know why net numbers
20 were being determined that were half of the
21 "Current Claim" and "Expected" Lehman
22 numbers?
23 MR. LAWRENCE: Objection.
24 Calls for speculation.
25 A I don't have a clue.

1 Peter Shapiro
2 MR. LAWRENCE: Objection.
3 Calls for speculation.
4 A I would again just be
5 speculating.
6 Q You have no -- do you have any
7 recollection of a discussion with
8 Washington TSA about negotiation range?
9 A We had discussions back and
10 forth with the Lehman estate at various
11 times, so this may have been numbers that
12 people were playing with.
13 But as I'm recalling, there was
14 some discussions back and forth looking
15 at -- looking at whether or not there was
16 some range which they could have settled
17 them. And I'm not recalling any specifics
18 on that.
19 We had so many discussions with
20 various people who'd float in and out of
21 the Lehman estate at that point.
22 Q My question was:
23 Do you recall discussions with
24 Washington TSA about a negotiation,
25 negotiating range?

1 Peter Shapiro
2 A I'm not recalling.
3 Q You don't recall any such
4 discussions?
5 A I do recall some discussions
6 around crystal --
7 MR. LAWRENCE: Stop. Okay. I
8 just want to interpose an objection.
9 Obviously, for the purposes of --
10 purposes of mediation, you should not
11 answer a question, any discussions you
12 had for purposes of mediation.
13 Outside of that range, answer.
14 A Okay. Let me say, you know,
15 for purposes of mediation, I have to, at
16 direction of counsel, you know, not include
17 anything there.
18 There were some discussions
19 around crystallization of the claim. And
20 so, you know, there were some discussions
21 at certain points about what we could come
22 up with, you know, in that area, what were
23 hypo -- strictly hypotheticals.
24 Q And what was the range of
25 numbers being discussed with Washington TSA

1 Peter Shapiro
2 you did have such discussions?
3 A Exactly.
4 Q It wouldn't surprise you if you
5 did have such discussions with Washington
6 TSA?
7 A Correct.
8 Q And just to make sure the
9 record is clear, you have no idea what the
10 net numbers on this Shapiro Exhibit 39
11 mean?
12 A No. But, Lauri, in your line
13 of questioning, you are suggesting that
14 perhaps that would have been the recovery
15 that you would have gotten had a Lehman
16 claim paid out at \$0.50 on the dollar.
17 And that's a pretty good guess
18 on your part.
19 Q Do you agree with that guess?
20 A I can't tell.
21 MR. LAWRENCE: Objection.
22 Calls for speculation.
23 Q It's a reasonable guess,
24 though?
25 A Yes, I think -- I hadn't

1 Peter Shapiro
2 around the crystallization of the claim?
3 A I can't recall.
4 Q Do you recall any discussions
5 with Washington TSA about a negotiating
6 range between \$15 million and \$8 million?
7 A No.
8 Q Do you recall any discussions
9 with Washington TSA about having a
10 negotiating range between \$30 million, and
11 \$16 million?
12 A 30 million and 60?
13 Q 16.
14 A 16, no.
15 Q Do you recall any discussions
16 with Washington TSA about expecting to
17 recover 50 percent on its claims?
18 MR. LAWRENCE: Again, outside
19 of mediation.
20 A Outside of mediation, I am not
21 recalling that specifically, but 50 percent
22 at that time interval would have been a,
23 you know, a good, very rough ball park
24 number.
25 Q So it wouldn't surprise you if

1 Peter Shapiro
2 thought of that. I think you are making a
3 pretty good guess.
4 Q Do you -- then if you look on
5 the right side of Exhibit 39, there's some
6 much larger numbers, one that starts 2.67
7 and one that is 53 billion 400 million.
8 Do you see that?
9 A Those would have been great
10 recoveries to get, particularly the
11 \$2.67 trillion.
12 Q Do you -- do you know why those
13 numbers are on the sheet?
14 A No, those are the -- as I
15 mentioned, pretty wild numbers.
16 Q Do you have any idea what
17 relation they might have to the Washington
18 reserve fund agreement or its claim against
19 Lehman?
20 A For the life of me, you
21 can't -- I can't figure out how you could
22 get to 2.67 trillion.
23 Q You don't -- do you recall any
24 discussions with Washington TSA about
25 numbers in the billions or trillions?

1 Peter Shapiro
2 A No.
3 (Exhibit No. Shapiro 40, E-Mail
4 chain, top E-Mail dated 8/23/10 from
5 Nathaniel Singer to Peter Shapiro and
6 Lilian Chern, Subject: Tobacco, Bates
7 No. SFG 2352, is marked by the
8 reporter for identification.)

9 Q The court reporter has handed
10 you a document that has been marked as
11 Shapiro Exhibit 40. For the record it's a
12 single-page document, Bates stamped SFG
13 2352. It's an E-Mail chain. The top
14 E-Mail is on August 23, 2010, from Nat
15 Singer.

16 Do you see that?

17 A Right.

18 Q Let me know when you have had a
19 chance to review this.

20 A Yeah, I have read it.

21 Q Okay. Do you recall this
22 E-Mail exchange?

23 A I do not. It's -- you know,
24 when I read this -- if you're asking, does
25 it refresh my memory, it really doesn't.

1 Peter Shapiro
2 mediation process, we worked with multiple
3 other tobacco claimants.

4 Q And why would you look at the
5 other claims being filed by the other
6 tobacco entities in the Lehman bankruptcy?

7 A Comparison, look at how other
8 people would have looked at them -- look
9 at, you know, as a very, very crude
10 estimate of reasonableness.

11 Q And you would have looked at
12 their spreads to LIBOR as is reflected in
13 Shapiro Exhibit 40?

14 A As one of many indicators.

15 Q What else would you look at?

16 A What else would I look at for
17 an indication of reasonableness?

18 Q Um-hum.

19 A All the other things we have
20 discussed, you know, bond spreads in the
21 bond market, spreads in the CP market, any
22 other indications we have of profit
23 margins, all of the things that we have
24 gone over in great detail.

25 Q So you would look at these

1 Peter Shapiro
2 You know, there is nothing in here that
3 surprises me. But I don't have, as I sit
4 here, any record of that, any recollection
5 of that, of this back and forth.

6 Q Do you recall the analysis
7 being done of looking at the New Jersey
8 claim and comparing it to the Washington
9 claim?

10 A No, I don't.

11 Q Do you recall you watching the
12 other claims being filed by the other
13 tobacco entities and seeing how they
14 compared with the Washington claim?

15 A I recall looking at the other
16 claims that were filed quite a bit for many
17 reasons.

18 Q Do you recall looking at those
19 other claims specifically in connection
20 with your work you were doing for
21 Washington TSA?

22 A Washington TSA was part of our
23 work, so I would have obviously been
24 looking at a comparison with Washington.
25 But as you're aware, in the confidential

1 Peter Shapiro
2 other claims to get a sense of their views
3 of the spreads in the bond market?

4 A No, because you can't tell from
5 these claims what the -- how they derived
6 their spreads.

7 Q So what other indications from
8 the other claims were you looking at other
9 than the spread to LIBOR to assess the
10 reasonableness of Washington's claim?

11 A The other thing you would look
12 at in the claims is how they calculated, to
13 the extent you could see that. In some of
14 the claims, you could; like, for example,
15 it says here that in the New Jersey -- in
16 the New Jersey claim, it has one really
17 unusual feature.

18 And I am quoting from my E-Mail
19 to Nat and Lillian on -- at the bottom of
20 Exhibit 50 [sic]:

21 "Their FA parens per southwest
22 got market quotations."

23 So that was obviously a source
24 of some interest.

25 Q And why was that a source of

1 Peter Shapiro
2 some interest?
3 A Because our experience had been
4 that market quotations were not obtainable.
5 Q And when you say "market
6 quotations," you are referring to the
7 process outlined in the RFA to solicit
8 quotations from dealers, correct?
9 A Correct.
10 Q And were you aware of any other
11 tobacco reserve fund agreement claimants
12 that had been able to obtain market
13 quotations?
14 MR. LAWRENCE: Are you talking
15 about then or at any time?
16 MS. SAWYER: At any time.
17 A I can't recall. I would have
18 to go back and look.
19 Q Have you ever reviewed the
20 Virginia claim?
21 A I know I reviewed the Virginia
22 claim, and I can't recall what was in it.
23 Q Have you ever reviewed the
24 Buckeye claim?
25 A Yes.

1 Peter Shapiro
2 Q And then used -- then she used
3 those spreads to LIBOR and applied them to
4 the Washington reserve fund agreement
5 inputs, if you would, the notional amount,
6 the termination date, those types of
7 things, correct?
8 A Correct.
9 Q And she at this time would have
10 assumed the maturity date of 2042?
11 A This is now August 2010. When
12 was the mediation for Washington?
13 Q Started in May of 2012.
14 A The mediation was 2012. You
15 probably know this, Lauri, or maybe Paul
16 knows this from the record, when we became
17 aware of the earlier termination date of
18 the agreement, the fact that the original
19 agreement had been amended to 2032.
20 I don't know what date offhand
21 we became aware of that.
22 Q So you don't know, looking at
23 this document, Shapiro Exhibit 40, whether
24 or not Ms. Chern assumed a maturity date of
25 2032 or 2042 in applying those spreads to

1 Peter Shapiro
2 Q And do you recall what the
3 basis was for their loss calculation -- I
4 am sorry -- their termination amount
5 calculation?
6 A I can't recall. You know,
7 there are a bunch of these claims, and I
8 wouldn't want to try to do it as a memory
9 contest. I would have to go back and look.
10 Q But there were other tobacco
11 claimants that were able to obtain market
12 quotations?
13 A I can't recall. I'd really
14 have to go back and look. I should state
15 for the record that on New Jersey, as you
16 are aware, our firm has been retained to
17 work with them on the mediation process.
18 And that mediation process is coming up
19 shortly.
20 Q In the analysis that was done
21 here by Ms. Chern of the New Jersey claim,
22 she had taken the claim numbers and the
23 quotations and converted them to a spread
24 to LIBOR; is that fair?
25 A That's fair.

1 Peter Shapiro
2 LIBOR to the Washington reserve fund
3 agreement?
4 A I thought my prior answer was
5 very clear on that. I can't tell.
6 Q Did you discuss this
7 analysis -- do you recall any discussion
8 with Washington TSA about this analysis of
9 the New Jersey claim?
10 A I do not.
11 Q Do you recall any discussion
12 internally at Swap Financial Group about
13 this analysis of the New Jersey claim and
14 its implications for the Washington claim?
15 A As I look at this, I can see
16 that there was discussion, if discussion is
17 broadly defined to include E-Mail back and
18 forth.
19 Q Do you recall any other
20 discussion other than what is reflected in
21 Shapiro Exhibit 40?
22 A No.
23 Q And then numbers Ms. Chern has
24 calculated in her 2:14 p.m. E-Mail range
25 from \$9 million to \$25 million roughly; do

1 Peter Shapiro
2 you see that?
3 A Yes.
4 Q And those would have been
5 moneys payable to Washington TSA, correct?
6 A Correct.
7 Q And those are substantially
8 less than the claim being calculated at
9 Washington -- by Swap Financial Group at
10 this time of \$45 million, right?
11 A And substantially larger than
12 the claim that Lehman was offering to go
13 for, so they are in between.
14 Q So in between the claim
15 calculated by Swap Financial Group of
16 approximately \$45 million and Lehman's
17 valuation?
18 A Right, which, as I recall, was
19 around 4 million.
20 Q All right.
21 (Exhibit No. Shapiro 41, Word
22 Document, Notes taken by Mr. Shapiro,
23 Bates Nos. SFG 2314 to 2318, is marked
24 by the reporter for identification.)
25 Q The court reporter has handed

1 Peter Shapiro
2 your client as well?
3 A I may have.
4 Q Is that sort of your normal
5 practice in handling one of your matters to
6 keep sort of running notes like this?
7 A Sometimes.
8 Q And did you do this in
9 connection with Washington?
10 MR. LAWRENCE: Objection.
11 A Was this in connection with
12 Washington?
13 Q Yes.
14 A Shapiro 41?
15 Q Yes.
16 A Yes, this was -- this looks
17 like it's clearly in connection with
18 Washington. But maybe I should read over
19 it just to make sure.
20 Q I think we can -- we can
21 revisit that, if you have a concern as we
22 go through it, that this doesn't have to do
23 with Washington Tobacco.
24 You can let me know, if, as we
25 go through the examination, you think it

1 Peter Shapiro
2 you a document that has been marked as
3 Shapiro Exhibit 41. It's a multi-page
4 document, looks like a Word document, Bates
5 stamped SFG 2314 through 2318.
6 It doesn't have a heading or
7 anything. You can certainly read it all,
8 Mr. Shapiro, but there are certain areas I
9 want to focus on. But you should glance it
10 over and see if you recognize the document.
11 A I do recognize the document.
12 Q Okay. What is this document?
13 A These are my notes.
14 Q And how were these notes
15 prepared by you?
16 A I would be talking to people
17 and typing on my screen.
18 Q And you would be typing like a
19 Word document?
20 A In a Word document, yeah.
21 Q And would you -- there are
22 certain aspects of this document that are
23 covered up, redacted, and they say "work
24 product"; would you record the notes of
25 conversations that you had with counsel or

1 Peter Shapiro
2 does not relate to Washington Tobacco.
3 A Okay.
4 Q Would there be other sets of
5 notes that you would have prepared other
6 than this set of notes?
7 A Not if we didn't produce --
8 everything that we had we produced.
9 Q Okay. If you turn to the
10 second page, which has a very large
11 blacked-out section at the top, and then it
12 says, "7/14/10, call with LB."
13 Do you see that?
14 A Right.
15 Q Is this notes of your call with
16 Lehman Brothers on July 14, 2010?
17 A "LB" is what I would normally
18 refer to -- use to refer to Lehman
19 Brothers. And the names in the parens --
20 in the parentheses following "LB" are all
21 Lehman names that I recognize with the
22 exception of Richard Harper. I don't
23 remember that name.
24 Q And so would these be notes of
25 your call that you had with Lehman Brothers

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1 Peter Shapiro
2 on July 14, 2010?
3 A That's correct.
4 Q And would these notes have been
5 made contemporaneously with that call?
6 A Yes.
7 Q So as you were on the phone
8 call, you would have been making notes?
9 A Exactly, which -- it would
10 explain, you know, spelling errors and lack
11 of grammatical rigor.
12 Q Would you share these notes
13 with anybody?
14 A Generally not.
15 Q And in this call, it seems like
16 you are reporting that Lehman discussed the
17 notion of the use of the agency curve. Is
18 that a fair thing to draw out of these
19 notes?
20 A Let me read it over.
21 Q Okay.
22 A You know, as you remarked
23 earlier, rather than spend time reading the
24 whole thing, you were going to highlight
25 sections. And I will just read that

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1 Peter Shapiro
2 not reflected in your notes?
3 A No. On that specific
4 discussion, you are saying no.
5 Q And why did you start taking
6 notes -- you know, we don't have any note
7 of your earlier calls with Lehman Brothers.
8 Why did you start taking notes at this
9 particular point in time?
10 A We were looking at this issue
11 of how we would sell the claim; and, you
12 know, if it were possible to get something
13 for the claim. So there were a lot of new
14 players.
15 If you look at how the notes
16 start, the beginning is a whole list of
17 potential claim purchasers. Some of those
18 are firms that we deal with everyday. But
19 many of those are firm that are not swap
20 dealers.
21 So just simply to keep track of
22 a lot of new and different names, I
23 obviously said I better begin to commit
24 this to writing and not rely upon my
25 memory.

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1 Peter Shapiro
2 section over.
3 Q Sure.
4 A I am done reading it.
5 Q My question was -- is:
6 Do you recall in this
7 discussion, July 2010, Lehman raising the
8 idea that it was using the agency curve to
9 value the reserve fund agreement?
10 A I don't have any
11 contemporaneous recollection as I am
12 sitting here. But it says here:
13 "Thinks if we can generate all
14 the curves on all eligible securities,
15 won't tell us the level, use agency curve
16 to derive it."
17 From reading those words, it
18 sounds like he was pushing for using -- you
19 know, when I say he, Sandeep or whoever the
20 Lehman representative was, was saying:
21 "Look at agencies, and look at
22 the agency forward curve."
23 Q After reading these notes from
24 the July 14, 2010, call, do you recall any
25 other aspects of the discussion that are

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1 Peter Shapiro
2 Q So this memorandum was your
3 notes regarding kind of the claims sale
4 process that you were undertaking for
5 Washington TSA?
6 A It would be wrong to call this
7 a memorandum. These are just notes. It's
8 a scratch pad really. That's what you
9 think of this as, Lauri, very -- very
10 informal.
11 Q But your notes relating to that
12 claim sale process that you were involved
13 with on behalf of Washington TSA?
14 A That would be accurate.
15 Q If you turn to the page marked
16 2316 at the bottom, which is the next page,
17 and it has "Peter Colquitt DB" at the top;
18 do you see that?
19 A Yes.
20 Q I see: Peter Colquitt DB."
21 Then the next paragraph starts with "Dan
22 Daly, Citi." Then the last paragraph --
23 next-to-the-last paragraph starts with
24 "Greg S." Then the last paragraph starts
25 with "Kevin Schwartz."

1 Peter Shapiro
2 Do you see that?
3 A Yes, right.
4 Q And are these notes of
5 conversations that you had with those
6 individuals?
7 A That's correct.
8 Q And Dan Daly at Citi, was he
9 sitting on the Citi desk when you talked to
10 him?
11 A Yes.
12 Q And did you know Dan Daly
13 before you had this conversation reflected
14 in these notes?
15 A Yes.
16 Q And how long have you known
17 Mr. Daly?
18 A I don't know.
19 Q Okay. If you look five lines
20 down in the paragraph with Mr. Daly, toward
21 the end of that line, it says:
22 "The mid is probably LIBOR less
23 40 or 50."
24 Q Do you see that?
25 A Yes.

1 Peter Shapiro
2 few minutes. I want to read over the
3 paragraphs for Colquitt, Daly, Greg S., and
4 Kevin Schwartz. Let me just see.
5 Q You certainly can read at your
6 leisure. You certainly can read. I want
7 you to understand the context.
8 A Okay. Thank you.
9 Okay. Sorry.
10 Q That's all right.
11 A It was very interesting to read
12 backup.
13 Q Okay. So going back to the
14 paragraph for Mr. Daly --
15 A Yes.
16 Q -- of your conversation -- your
17 notes of your conversation with Mr. Daly,
18 we were talking about the fifth line where
19 you had written:
20 "The mid is probably LIBOR less
21 40 or 50."
22 Q Do you see that?
23 A Right, yep.
24 Q What were you referring to when
25 you wrote:

1 Peter Shapiro
2 Q And then:
3 "Unwind going the other way."
4 Do you see where I am?
5 A Yes.
6 Q What do your notes -- what did
7 Mr. Daly tell you that you wrote down as
8 being, "The mid is probably LIBOR less 40
9 or 50"?
10 A Say that, again, because I was
11 trying to read while you were talking so I
12 didn't quite follow.
13 Q What was the discussion with
14 Mr. Daly that prompted you to write down in
15 your notes:
16 "The mid is probably LIBOR less
17 40 or 50"?
18 A Let me read over the whole
19 thing okay. Okay. I am just going to read
20 over that paragraph right now, although I
21 should say it's important to put that
22 paragraph in the context of what I was
23 doing from these notes, you know, what you
24 can see.
25 So if you could, just give me a

1 Peter Shapiro
2 "The mid is probably LIBOR less
3 40 or 50"?
4 A That's his starting point for
5 valuing the termination. You know, he
6 works off of that as the mid, and then he
7 adds on to that or does further
8 subtraction -- is really what you are
9 doing.
10 So you widen the spread from
11 LIBOR minus 40 or 50 to include tobacco
12 long-dated funding, all of these things
13 that he listed.
14 Q So the mid refers to what the
15 industry calls the "mid market value"?
16 A Yes.
17 Q And that would be the value
18 before you added on whatever dealer charges
19 need to be added on for things like the
20 credit and the funding and the hedging, et
21 cetera?
22 A That's correct.
23 Q And he was telling you that the
24 mid is probably LIBOR less 40 or 50 basis
25 points?

1 Peter Shapiro
2 A That's correct.
3 Q Okay. And if you look at the
4 line before that, it says:
5 "If we looked at a 30-year FPA,
6 we would look at LIBOR minus 50 minus 42."
7 Do you see that?
8 A Yes.
9 Q Is that kind of the same
10 concept as what we were just looking at
11 that that --
12 A 40 to 50 -- he's thinking out
13 loud here.
14 Q Okay. Just to make sure the
15 record is clear, so he's telling you:
16 "If we looked at a 30-year FPA,
17 we would start with LIBOR minus 50 or minus
18 42 as sort of the mid market value."
19 Correct?
20 A Correct.
21 And then, you know, Lauri, as
22 you go ahead, he is saying:
23 "Really wide, very expensive,
24 no appetite for credit exposure."
25 Q After the portion we were

1 Peter Shapiro
2 typical in an unwind. When you think of
3 unwinds, usually, you are thinking:
4 "Okay. I have got add on to
5 it."
6 But here you have to subtract
7 off.
8 Q Why do you have to subtract off
9 here?
10 A Because you have further -- you
11 get further from mid. In other words, they
12 would -- what they are saying is -- is when
13 they calculate this, how much would they be
14 willing to pay as a fixed rate? So that's
15 really what you are looking at.
16 Remember, Lehman, in 2002 was
17 willing and contracted to pay
18 4.484 percent. What they are saying here
19 is they would start looking at the mid
20 LIBOR rate, subtract off 40 to 50, and then
21 begin the process of doing other
22 subtractions for spread, "spread" defined
23 broadly to include credit, hedging costs,
24 funding, profit, all of those things.
25 Q And this is what Citibank would

1 Peter Shapiro
2 looking at where he says, "The mid is
3 probably LIBOR less 40 or 50," you write
4 "unwind going the other way."
5 Do you see that?
6 A Yes.
7 Q What is that referring to?
8 A Not positive, negative.
9 Q What do you mean "not positive,
10 negative"?
11 A In other words, when you're --
12 in terms of the unwind, you are saying
13 LIBOR minus 40, and then further costs down
14 lower.
15 Q So in the event of an unwind or
16 in other words a termination --
17 A Yes.
18 Q -- you would -- you interpret
19 that to be an -- in the case of an unwind,
20 you would go further into negative
21 territory?
22 A Correct.
23 Q Even though you write "unwind
24 going the other way"?"
25 A Yes, meaning negative. It's

1 Peter Shapiro
2 do -- when you say "they," you are
3 referring to Citibank?
4 A Correct.
5 Q So then moving down to the --
6 where it says "Greg S"; do you see that?
7 A Yes.
8 Q Do you know who that is
9 referring to?
10 A Absolutely.
11 Q Who is that?
12 A Greg Shlionsky --
13 Q Who formerly --
14 (There was a discussion off the
15 record.)
16 A Shlionsky. Let me spell it for
17 you, S-h-l-i-o-n-s-k-y.
18 Q Mr. Shlionsky formerly sat on
19 the Lehman desk?
20 A Correct. He was formerly the
21 head of the Lehman desk.
22 Q And at this time he was at
23 Barclays?
24 A At some time in -- around here,
25 he moved from -- let me think. I'm not

1 Peter Shapiro
 2 sure. He -- you know, he set up his own
 3 firm, Rosemawr, at a certain point. So I'm
 4 not sure if he would have been at Barclays
 5 at this point or if he would have been at
 6 Rosemawr.

7 I am trying to remember, Lauri,
 8 if he even stopped at Barclays, or if he
 9 went straight to Rosemawr, if he left
 10 Lehman before the Lehman bankruptcy. I
 11 could look it up.

12 Q If you go down maybe eight
 13 lines --

14 A Yes.

15 Q -- it's -- the start of the
 16 line says, "An end to it" -- do you see
 17 where that line is?

18 A Yep.

19 Q And then to the end of that
 20 line, where it says, "No basis"?

21 A Yep.

22 Q Okay.

23 "No basis in" -- "No basis
 24 market in A's discount notes. With agency
 25 you could reverse inquiry for six months,

1 Peter Shapiro
 2 this is in that context.
 3 Q Okay. So he says there is "no
 4 basis market in A's discount notes,"
 5 referring to "agencies," I assume?

6 A Yes.

7 Q "With agency you could reverse
 8 inquiry for six months, but not 20 years."
 9 So he's referring to
 10 difficulties in hedging; is that fair?

11 A Correct.

12 Q But he then says:
 13 "I did it once, but it was
 14 unique."

15 A Yes.

16 Q Do you see that?

17 A Yes.

18 Q And do you recall Mr. Shlionsky
 19 telling you that he had hedged agency
 20 discount notes once before?

21 A He -- I can't tell from my note
 22 here what he meant for how long he did it
 23 for.

24 Q But he did do it for some
 25 period of time?

1 Peter Shapiro
 2 but not 20 years, did it once, but it was
 3 unique."

4 Do you see that?

5 A Yes.

6 Q What do you recall
 7 Mr. Shlionsky telling you that you
 8 reflected in these notes?

9 A That -- that the Lehman
 10 estate's idea of going out LIBOR forward --
 11 sorry -- the agency forward curve was
 12 nonsensical. It would not work, that it
 13 was a fantasy.

14 And this is what all of these
 15 notes basically are saying. They're saying
 16 you can't do that. And, you know, they go
 17 into it. If you look at it, "with A's,
 18 their argument is silly."

19 It's not -- it's not -- he's
 20 not using mild language on this. He's
 21 using -- he's saying the Lehman estate's
 22 notion here is a crackpot idea.

23 Q But the section I was looking
 24 at, let's just focus on that.

25 A I understand, but this is --

1 Peter Shapiro
 2 A For something.
 3 Q And then if you could see where
 4 Kevin Schwartz's name shows up, do you see
 5 that?

6 A Yep.

7 Q If you go up a few -- three
 8 lines above that, it says, "Lehman was the
 9 big guy. MS was the next one."

10 Do you see that?

11 A Yep.

12 Q What does that mean?

13 A Who was -- who were the most
 14 active players in this -- in the FPA
 15 market, or RFPA -- RFA market we are
 16 calling this.

17 Q And Lehman was the big guy
 18 followed by --

19 A Morgan Stanley.

20 Q Then going to "Kevin Schwartz,
 21 MS," do you see that?

22 A Yes.

23 Q Was Mr. Schwartz at Morgan
 24 Stanley?

25 A Yes.

1 Peter Shapiro
2 Q And was he sitting on the desk?
3 A Yes.
4 Q And did you speak with
5 Mr. Schwartz?
6 A Yes.
7 Q The next line after -- or next
8 words after that says:
9 "Jeff Hasterok will call back."
10 Do you see that?
11 A Yes.
12 Q And is that -- is that the same
13 Jeff Hasterok who is an expert witness on
14 behalf of Washington TSA?
15 A Yes.
16 Q And did Mr. Hasterok call you
17 back?
18 A From these notes, it doesn't
19 look like it. It looks like instead:
20 "Maybe should call Fabrice,
21 too," and then it says "Fabrice."
22 And then starts to be notes on
23 what Fabrice was saying. Fabrice was their
24 head trader. You know, Jeff was a
25 derivatives structural marketer.

1 Peter Shapiro
2 Q So Fabrice was telling you that
3 he was aware --
4 A His last name is, just for the
5 record, is Pilato, P-i-l-a-t-o.
6 Q So Fabrice was telling you that
7 he was aware of one dealer in the market
8 that was using long-traded agencies to
9 hedge and marking the FPA at the agency
10 spread minus something?
11 A Yes.
12 Q Did you ask who -- what dealer
13 that was?
14 A I don't believe so. I would
15 have noted.
16 Q Okay.
17 A But, again, he's saying you get
18 completely killed. He was saying -- he was
19 saying whoever did this was -- well, you
20 know, was an amateur.
21 Q That he thought it was a risky
22 strategy?
23 A Worse. He said you would get
24 killed.
25 Q But he was aware of somebody

1 Peter Shapiro
2 Q And so the notes starting with
3 "Kevin Schwartz, MS," the notes of the
4 conversation are actually notes of a
5 conversation with Fabrice?
6 A Yes.
7 And if you will notice here,
8 again, I'll just point out to you -- he's
9 saying you can't do this -- this Lehman
10 estate strategy of using -- as he says, you
11 get completely killed. You know, he goes
12 through it -- you know, I just read this
13 through -- you know, about how -- how this
14 would not work.
15 Q So right after the word
16 "Fabrice," you have a dash, and then it
17 says:
18 "One dealer was using long
19 dated A's to hedge and marking the FPA at
20 the A spread minus something."
21 Do you see that?
22 A Yes.
23 Q So Mr. -- is Fabrice his first
24 name?
25 A Yes.

1 Peter Shapiro
2 that was doing in the market?
3 A Yes.
4 MR. LAWRENCE: Objection.
5 Argumentative. Asked and answered.
6 A And I point out above, it's --
7 Lauri, it's very much confirmed by what
8 Greg Shlionsky says in the line right above
9 where it says "Kevin Schwartz":
10 "Less than sincere traders made
11 this argument to a less than expert product
12 control in order to book more profits."
13 Q If you turn the page --
14 A So you know what that means,
15 what he's saying:
16 "This is a fraudulent strategy
17 that somebody would try to use to inflate
18 their bonus."
19 Q Of course, some dealer did it
20 according to Mr. Fabrice?
21 A Got away with doing it
22 internally in order to inflate their profit
23 numbers. But it was highly hazardous, not
24 thought of as a -- as a -- as a legitimate
25 practice.

1 Peter Shapiro
2 Q And Mr. Shlionsky did it once?
3 A Mr. Shlionsky did not say he
4 did it once.
5 Q He said he hedged agencies
6 once?
7 A He said he hedged agencies. He
8 didn't say how long. And he said -- he
9 said it was unique and not applicable.
10 Q Where does he say it's not
11 "applicable," that the --
12 A He was saying:
13 "But it was unique."
14 What he's saying there is it
15 wouldn't have applied in this case.
16 Q What do you recall him saying
17 about the hedge that he had done at Lehman
18 and how it would not be applicable in this
19 case?
20 A When he's saying it was unique,
21 he would have -- you know, that's what he's
22 -- when I am writing the word "unique,"
23 he's saying it wouldn't have applied.
24 Q And did Mr. Shlionsky tell you
25 that he had put the hedge in place while he

1 Peter Shapiro
2 Q And that's the option held by
3 the dealer?
4 A That's correct.
5 Q And Fabrice is telling you that
6 the "cheapest-to-deliver option actually
7 increases in value as the economic
8 situation deteriorates"?
9 A Correct.
10 Q And how did you factor in the
11 cheapest-to-deliver option in the valuation
12 that you did on behalf of Washington TSA?
13 A As -- you know, as we have
14 discussed, we increased the value of the
15 deliverable of CP from a norm, which I
16 think I described in one of the prior
17 documents, of 10 to 20 basis points, up to
18 66.6. It's a big increase.
19 Q But then in your rebuttal
20 report, you reduced it to 3.1 basis points,
21 correct?
22 A You know, that we said that
23 that 66.6 was too wide.
24 Q Right. So you have reduced it
25 now to 3.1 basis points?

1 Peter Shapiro
2 was at Lehman?
3 A It would -- you know, he just
4 said he did it once. You know, he's not
5 saying, "I did it at Lehman."
6 But I know -- my relationship
7 with him started when he was at Lehman.
8 Q If you turn to the page marked
9 2317, the third line starts, "Swap at
10 implies" -- do you see which line I am at?
11 A Yes.
12 Q After the semi-colon, you
13 write:
14 "Cheapest-to-deliver option
15 increases in value as the economic
16 situation deteriorates."
17 Do you see that?
18 A Yes.
19 Q What's the "cheapest-to-deliver
20 option"?"
21 A "Cheapest-to-deliver option"
22 means you can deliver whichever eligible
23 security, CP agencies or Treasuries, at,
24 you know -- at each of the six-month
25 intervals.

1 Peter Shapiro
2 A We believe it was too wide --
3 Q And so --
4 A -- to be fair.
5 Q And you believe that 3.1 basis
6 points is where the dealer's
7 cheapest-to-deliver option is given value?
8 A When we went back and looked at
9 the basis market at that time, rather than
10 the spot market, the basis market seemed to
11 indicate a much lower number.
12 Q I don't think that answered my
13 question.
14 Is that 3.1 basis points taking
15 it -- is that the valuation of the
16 cheapest-to-deliver option held by the
17 dealer?
18 A It's the value of what was
19 cheapest-to-deliver, which is CP, and
20 implies the value of the option.
21 Q So that 3.1 basis points is
22 Swap Financial's opinion as to the value of
23 the cheapest-to-deliver option held by the
24 dealer?
25 A Includes that, yes.

1 Peter Shapiro

2 Q And do you --

3 MR. LAWRENCE: Lauri, I am --
4 you know, I have let you go on for a
5 while. This was not a newly produced
6 document. You are beyond the scope of
7 what we were allowed to depose --

8 MS. SAWYER: I thought this was
9 one of the documents that was produced
10 in the last batch.

11 MR. LAWRENCE: I was looking at
12 this list, and it doesn't appear to
13 be. I could be wrong.

14 MS. SAWYER: I could be wrong,
15 too. It was in the set that was given
16 to me as a newly produced document.
17 So I can certainly wrap it up, and we
18 can move on. I have been trying to
19 focus on the documents newly produced.

20 MR. LAWRENCE: It's fine. It's
21 fine. If you could finish up with
22 this document -- I am not saying you
23 have to stop this second, but I
24 just -- looking at my list, it wasn't
25 on it, but I could be wrong, too,

1 Peter Shapiro

2 because, remember, he's the trader; so that
3 would correlate with the earlier number
4 that -- that you saw on Dan Daly in the 40
5 to 50 range.

6 Q And you wrote down "LIBOR plus
7 50"?

8 A Yeah, it's got to be a typo.

9 Q You believe it to be a typo?

10 A I said it's got to be a typo.

11 Q And you believe that that --

12 you believe that, even though he says
13 "giving value to the cheapest-to-deliver
14 option" --

15 A Yeah.

16 Q -- you still believe that to be
17 a mid?

18 A Yeah.

19 Q So you believe that the
20 cheapest-to-deliver option is incorporated
21 into the mid market value?

22 A Yes, because, remember, the --
23 a mid is going to incorporate all the
24 economic terms before you apply spreads.

25 Q If you could look after the --

1 Peter Shapiro

2 so --

3 Q If you could go down to right
4 before where it says "Chris Petronas CS,"
5 do you see that?

6 A Right before, yes.

7 Q Two sentences before it, it
8 says:

9 "Thinks the fair spread is
10 something in the mid double digits LIBOR
11 plus 50, giving value to the
12 cheapest-to-deliver option."

13 Do you see that?

14 A Yes.

15 Q What do you recall about the
16 discussion with Fabrice about that?

17 A I'm not sure. I am looking at
18 that -- you know, whether I -- whether I
19 made a typo and should have said "minus,"
20 rather than "plus," because "plus" makes no
21 sense.

22 Q And he -- he told you that he
23 thinks a fair spread would be something in
24 the mid double digits?

25 A Yeah, he's giving a mid,

1 Peter Shapiro

2 A Notice what he says after that,
3 "a long-term A hedge," meaning agency
4 hedge, "is complete garbage."

5 That's not a -- that's not a
6 mild phraseology.

7 Q I understand that you have a
8 lot of points to make off of this document.
9 And I am happy to sit here and do that, but
10 we would finish up sooner if we just
11 focused on the questions I have.

12 A My apologies.

13 Q If you look in the middle of
14 the page, there is a number one, do you see
15 that, just number one --

16 A Yes.

17 Q -- that is set in.

18 A Yes.

19 Q Right below that, it says:
20 "MS quote sheets during"
21 this -- "during the time period show no
22 movement in FPA prices."

23 Do you see that?

24 A Yes.

25 Q What is that referring to?

1 Peter Shapiro
2 A This was something in
3 preparation for mediation, I believe. One
4 of the things, if we went through, was
5 trying to look at various quote sheets that
6 are provided to us and other market
7 participants, generally, on a weekly basis
8 by certain dealer firms, that circulate
9 quote sheets saying:

10 "For this product, here is
11 where their levels are, and for that
12 product here is where their levels are."

13 And one of those was Morgan
14 Stanley. They produced a weekly quote
15 sheet that quoted on FPAs and/or FDAs,
16 whatever you want to call them, similar to
17 the RFA, you know, this exact same
18 architecture.

19 Q And is this something that Swap
20 Financial had in its possession, these
21 quote sheets?

22 A Yes.

23 Q And if you go down a few lines,
24 did you -- it says, "Call on 8/18/10."
25 Did you share those quote

1 Peter Shapiro
2 identification.)

3 Q Mr. Shapiro, I am handing you a
4 document that has been marked as Shapiro
5 Exhibit 42. It's a single-page document,
6 Bates stamped TSA 42744. It's an E-Mail
7 dated May 24, 2011, from Carol Johnson to
8 Kim Herman and Bob Cook.

9 And then the -- it starts by
10 saying:

11 "Peter Shapiro called me this
12 afternoon."

13 A I have reviewed it.

14 Q Do you recall this conversation
15 that -- with Ms. Johnson that she's
16 recounting in this E-Mail?

17 A I don't.

18 Q Okay. And it starts by saying:
19 "Peter Shapiro called me this
20 afternoon. He wants to talk to us about
21 our reserve fund investments. He has had
22 discussions with other tobacco clients in
23 similar circumstances and believes there's
24 some other forms of investment with better
25 returns parentheses fixed rate that we

1 Peter Shapiro
2 sheets with Lehman?

3 A I don't believe so.

4 Q Okay. It says --

5 A It says actually -- it says --
6 no, it says here:

7 "I have reviewed survey of FPA
8 providers, MS sheet history."

9 So I would have. It's saying I
10 did, so I trust that I did.

11 MS. SAWYER: And I don't think
12 we have copies of these MS quote
13 sheets, so I would just make a request
14 for those since you indicated they're
15 in your files.

16 THE WITNESS: Yes.

17 (Documents, MS Quote Sheets,
18 requested.)

19 (Exhibit No. Shapiro 42, E-Mail
20 dated 5/24/11 from Carol Johnson to
21 Kim Herman, Bob Cook, Subject: TSA --
22 Lehman Brothers, TSA Reserve Agreement
23 Investments and Status Review with
24 Peter Shapiro, Bates No. TSA 42744, is
25 marked by the reporter for

1 Peter Shapiro
2 could be taking advantage of."

3 Do you recall what you were
4 referring to in May of 2011 about these
5 other investments that other tobacco
6 clients had been taking advantage of?

7 A I said I don't recall the call
8 itself, so I can't recall the contents of
9 the call if I don't recall the call.

10 Q Do you recall ever speaking to
11 Washington TSA about other investments that
12 other tobacco clients were using for their
13 reserve funds that you thought Washington
14 should be doing?

15 A Yes. We had other
16 conversations, but not necessarily -- let
17 me -- just to clarify -- not necessarily
18 other tobacco clients were using, but that
19 they were considering.

20 Q And what were these other
21 investments that your other clients were
22 considering that you thought Washington TSA
23 should consider?

24 A In prior deposition, we've
25 reviewed this -- this question, I believe,

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1 Peter Shapiro
2 that is, you know, what were the other
3 alternatives to look at. And we -- you
4 know, I think we reviewed some memos on
5 this -- but, you know, various alternative
6 products, in the absence of the
7 available -- you know, the long-dated
8 reserve fund agreement.

9 (Previously Marked Exhibit No.
10 Shapiro 6, 11/16/11 Memorandum from
11 Peter Shapiro to Bob Cook and Carol
12 Johnson, Bates Nos. TSA 38481 to 38484
13 is introduced into the proceedings.)

14 Q I am handing you what has been
15 previously marked as Shapiro Exhibit 6,
16 which is a memorandum from you to TSA on
17 November 16, 2011.

18 Is this what you were referring
19 to about the discussions you had with
20 Washington TSA about other investment
21 opportunities?

22 A Help me out here. The fact
23 that it's called Shapiro 6, does that mean
24 that we discussed this in a prior
25 deposition?

1 Peter Shapiro
2 MR. LAWRENCE: Yes.
3 Q Yes.

4 A Okay. That's what I was
5 guessing. This is exactly what I was
6 referring to.

7 Q And other than what's reflected
8 in Shapiro Exhibit 6, do you recall having
9 any other discussions with Washington TSA
10 about alternative investment strategies
11 that they should consider?

12 A I am sure we had other
13 discussions than just this memo.

14 Q What do you recall of those
15 discussions?

16 A We reviewed these options.

17 Q Do you recall presenting any
18 other investment alternatives to Washington
19 TSA other than what's reflected in Shapiro
20 Exhibit 6?

21 A Let me review just to make
22 sure.

23 MR. LAWRENCE: Again, I think
24 you are -- while Shapiro 42 was newly
25 produced, it seems like you are going

1 Peter Shapiro
2 beyond that at this point.
3 MS. SAWYER: I am just trying
4 to understand if there was a
5 discussion relating to Shapiro
6 Exhibit 42 other than -- I am trying
7 to either connect them and say that
8 was that the same or not. And they
9 are six months different in time.

10 MR. LAWRENCE: I understand
11 that. But your most recent question
12 clearly wasn't that focused.

13 Q Do you recall any discussions
14 with Washington TSA between May 2011 and
15 November of 2011 discussing any other
16 alternative investments other than those
17 reflected in November -- in Shapiro
18 Exhibit 6?

19 A I do not recall.

20 MR. LAWRENCE: You need to
21 restate your question -- you say May
22 of 2011 and May of 2011.

23 MS. SAWYER: No, to November of
24 2011.

25 MR. LAWRENCE: Okay. Sorry.

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1 Peter Shapiro
2 A That's how I understood it.
3 I don't recall anything other
4 than this, other than these alternatives, I
5 should say.

6 Q And did you have any other
7 tobacco clients, as you refer to in Shapiro
8 Exhibit 42, that took advantage of any of
9 the investment alternatives you outlined in
10 Shapiro Exhibit 6?

11 A As I sit here, I am not
12 recalling who did what.

13 Q Do you recall that some of them
14 did pursue some of those alternatives you
15 outlined in Shapiro Exhibit 6?

16 MR. LAWRENCE: Again, I think
17 that's beyond the scope of what is
18 permitted at this point.

19 A I am really not recalling, or I
20 have to go back. I am racking my memory
21 now, and I didn't expect you were going ask
22 what other tobacco agencies did to
23 reinvest.

24 Q As part of your discussions
25 with Washington TSA about its investment

1 Peter Shapiro
2 alternatives, did you discuss what other
3 tobacco clients of yours had done?
4 A We discussed what other tobacco
5 clients had considered --
6 Q You don't recall --
7 A -- or were considering.
8 Q And do you recall whether any
9 of those other tobacco clients were
10 considering alternatives other than what
11 you set forth in Shapiro Exhibit 6?

12 A I don't believe so.

13 Q Okay.

14 MS. SAWYER: Can we go off of
15 -- on the record or off, I am going to
16 shift gears and go to the screen
17 shots. It will take me a little bit
18 of time, but if we want to take a
19 break lunch break, whatever, that's
20 fine. I don't have much after that,
21 though. So I am kind of to saying it.

22 MR. LAWRENCE: It's up to you.
23 (There was a discussion off the
24 record.)

25 THE VIDEOGRAPHER: The time is

1 Peter Shapiro
2 A Generally not. I -- you know,
3 the Principia operation is all done by my
4 staff, not by me.
5 Q Okay.
6 A I went through a very brief
7 introductory on it many years ago; but,
8 because I don't use it, I am -- you know,
9 half the time, I am just trying to figure
10 out what are -- what are the inputs in
11 here.

12 Q Okay. Do you use it from time
13 to time?

14 A No.

15 Q So looking at just Exhibit 43,
16 let's turn to -- let's -- actually, let's
17 look at the first page. On the far right
18 corner, it says "position," and it says
19 "position date"; do you see that?

20 A No, I'm looking. "Position
21 date."

22 MR. LAWRENCE: Talking about
23 the front page.

24 A Yes, do you mean in the lower
25 right-hand corner there?

1 Peter Shapiro
2 12:42 p.m.; we are going off of the
3 record.
4 (A lunch recess was taken.)
5 THE VIDEOGRAPHER: The time is
6 1:40 p.m.; we are back on the record.
7 (Exhibit No. Shapiro 43,
8 Version 1 Screen Shot from Principia
9 Software, Bates Nos. SFG 2394 to 2395,
10 is marked by the reporter for
11 identification.)

12 Q The court reporter has handed
13 you a document -- or I handed you a
14 document that has been marked as Shapiro
15 Exhibit 43, which is a computer screen
16 shot. Its Bates stamp is SFG 2394 to 2395.

17 Do you recognize this document,
18 Mr. Shapiro?

19 A I don't.

20 Q Have you used the Principia
21 software?

22 A No.

23 Q So you are not able to tell us
24 what any of the inputs or entries are on
25 these documents?

1 Peter Shapiro
2 Q Yes.
3 A Yes.
4 Q Do you know what "position
5 date" refers to?
6 A No. You know, it looks like
7 it's a valuation date, but I don't know.
8 Q Okay. And if you turn to the
9 second page of the screen shot, which is
10 2395 --

11 A Yep.

12 Q -- have you -- have you ever
13 seen this type of -- have you ever seen
14 this in the software on the Principia
15 screen?

16 A I have seen this just generally
17 on the screen, but never examined it
18 closely.

19 Q Okay. So in the upper
20 left-hand corner, it says "start and
21 maturity"; do you see that?

22 A Yes.

23 Q And do you know what those
24 dates refer to?

25 A You know, we are talking about

1 Peter Shapiro
2 the RFA. They look like the start date on
3 the RFA and the maturity date as we
4 understood it prior to the correction.

5 Q Okay. So maturity date of the
6 RFA is the one for maturity, where it says
7 30 May 2042?

8 A Yes.

9 Q And then there is a green box
10 that says RCV.

11 A Yeah.

12 Q And a couple of boxes down,
13 there is a blue box that says "pay."

14 Do you see that?

15 A Yes.

16 Q And do you understand what
17 those sections refer to?

18 A Receive and pay.

19 Q In connection with like an
20 interest rate swap?

21 A Yes.

22 Q So the "RCV" would be the
23 receiving of the fixed amount, and the
24 "pay" would be the paying of the floating
25 amount?

1 Peter Shapiro
2 Q And would that represent the
3 spread to LIBOR used for the floating leg
4 of the swap?

5 A Yes.

6 Q And so would this valuation be
7 the one done consistent with Mr. Vergara's
8 E-Mail where he assumed a spread to LIBOR
9 of minus 150 basis points?

10 A It looks that way. Now, if you
11 look at the date, too, on the bottom, it
12 says "entered at Monday, March 30th," you
13 know, "11-01-14 2009."

14 Q And so that date at the bottom
15 you just directed me to, that's the date
16 that the calculation was done using the
17 software?

18 A Probably. I don't know how
19 often it updates those dates, you know, if
20 it's like the original date or -- you know,
21 sometimes people take software and
22 overwrite. And you don't know if maybe it
23 was a date from another one and it was just
24 overwritten on.

25 It's hard to tell, but probably

1 Peter Shapiro
2 A Yes. The way -- the way it's
3 set up here, you can see RCV has a fixed
4 amount in it. You can even see that the
5 button "fixed" is indicated. And then
6 "pay," you can see it's referencing USD
7 three-month LIBOR minus 150.

8 Q And in that "receive," that
9 fixed amount, it's 4.8484 percent, which is
10 the guaranteed rate of the RFA?

11 A A very familiar rate to us in
12 our discussions, Lauri.

13 Q And just to make sure the
14 record is clear, that is the guaranteed
15 rate of RFA?

16 A That's what -- that's what it
17 appears to be.

18 Q Right. And then the "pay"
19 section is indicated "USD three-month
20 LIBOR." That's what you just told me,
21 correct?

22 A Yes.

23 Q And then it says plus and
24 negative 1.5 percent?

25 A Correct.

1 Peter Shapiro
2 not. Probably, it was a stand-alone.
3 Q And looking at the "pay"
4 section where it says "pay USD three-month
5 LIBOR plus the negative 1.5 percent," that
6 means to subtract 1.5 percent from the
7 applicable LIBOR rate, correct?

8 A Yes.

9 Q And so if the LIBOR rate was
10 1 percent, you would subtract 1.5 percent;
11 and you would have a negative interest rate
12 of half a percent?

13 A Not really, because negative
14 interest rates are not something that we
15 normally think of. You know, the way you
16 really have to look at the spread to LIBOR
17 in these agreements is though it's a spread
18 to a long-term structure.

19 So, you know, when a trader
20 says, "Where is ten-year LIBOR," okay,
21 or, "Where is 30-year LIBOR," technically,
22 there is no real LIBOR at ten years or
23 30 years.

24 But what they always mean
25 is, "Where is the ten-year swap," ten-year

1 Peter Shapiro
2 LIBOR swap or a 30-year LIBOR swap.
3 So if they say, "I am 30 years
4 LIBOR minus 150," they are not saying that
5 they expect on the pay side or on the
6 floating rate side that you would look at
7 today's LIBOR at 24 basis points and make
8 that a 24 minus 150 to make it a negative
9 interest rate of, say -- you know, what
10 does that equal -- you know, negative
11 1.26 percent.

12 Q But this is the USD three-month
13 LIBOR?

14 A Correct.

15 Q And that would be at various
16 points in time it would change, correct?

17 A It will change every three
18 months.

19 Q Right. And so you are saying
20 the software does not subtract 1.5 percent
21 from the USD three-month LIBOR rate?

22 A No, it really subtracts it from
23 the structure as a whole because it's not
24 going to tell you:

25 "All right. On -- you know, on

1 Peter Shapiro
2 USD three-month LIBOR?
3 A Yeah, it does. It looks at a
4 LIBOR swap for this period of time and
5 looks at it as though you took 150 off the
6 value of the swap. So you could put it on
7 either leg and get the same result really.
8 Q So does the software use the
9 USD three-month LIBOR curve or not?
10 A Yes, it does.
11 Q Okay. And from --
12 A And when it's looking at the
13 curve -- remember, what you are saying
14 there. The curve is not USD three-month
15 LIBOR. USD three-month LIBOR is a floating
16 rate set up every three months in US
17 dollars.
18 But the curve -- and the fact
19 that you use the curve is actually
20 important. What the curve says is:
21 What fixed rate could you swap
22 USD three-month LIBOR for as you went
23 longer maturities, not at three, not the
24 three-month, but as you went one year, five
25 years, ten years, thirty years?

1 Peter Shapiro
2 this date, you are paying negative 1.26 and
3 on this another date."

4 Jay Tambe, in one of the
5 earlier depositions with me, went over this
6 in great detail, and he kept getting it
7 wrong, that is, though -- it's as though
8 it's saying LIBOR is going to be a negative
9 number.

10 It's not. It's the structure.
11 Its going to have a negative spread
12 embedded in it, and it gets put in that
13 box.

14 Q I am trying to understand how
15 the software works.

16 A Yes.

17 Q And so the software has an
18 input of USD three-month LIBOR, and
19 subtracted from that is 1.5 percent,
20 correct?

21 A Yeah, we have already said
22 that, yes.

23 Q So how does -- how does the
24 software account for the long-term
25 discussion you are having? Does it not use

1 Peter Shapiro
2 And so that's really looking at
3 the fixed rate. So, you know, you are
4 right when you think of this as a deduction
5 off the curve. It's a deduction off of
6 those fixed rates.
7 Q It's a deduction off the USD
8 three-month LIBOR curve?
9 A "Curve" meaning fixed rates,
10 yeah.
11 Q Meaning the 4.484 fixed rate?
12 A Or really, if you looked at the
13 fixed rates, they are implied in swapping
14 LIBOR out long-term, the term structure of
15 LIBOR, as we call it.
16 Q Right. It would be -- but it
17 would be not the fixed rate of the
18 contract, but the USD three-month LIBOR
19 forward curve, correct?
20 A The fixed rates that are yield
21 date for LIBOR swaps on the day that this
22 is run. So in other words, on the day that
23 this is run, you are not going to get a
24 30-year rate of 4.484 because interest
25 rates are much lower by the time you get to

1 Peter Shapiro
2 2009.
3 Q But you don't deduct that
4 1.5 percent from the 4.484?
5 A You know, you can look at it
6 either way.
7 Q But that's not --
8 A It's going to get you the same
9 thing.
10 Q But that's not what this
11 software does?
12 A You know, it does it all
13 combined together, so it's like -- it's
14 like you are -- it's not like you are
15 saying it only does it one way or the
16 other. It's a big series of calculations.
17 The best way to think about
18 valuation -- the best way to put it in
19 layman's terms and common sense and not get
20 mixed up with "at what point do you do what
21 calculation" is really to say:
22 We have a contract with the
23 stated fixed rate. We now have a different
24 interest rate environment that is higher or
25 lower within the same parameters of the --

1 Peter Shapiro
2 three-month LIBOR?
3 A Because that's -- that's
4 where -- what you are doing your base curve
5 on. That's what you are saying -- the
6 fixed rate that you are comparing on. You
7 could do six-month LIBOR. You could do it
8 against EURIBOR, you know Euro LIBOR.
9 You could do it against any
10 number of different kinds of indexes that
11 will produce different fixed rates.
12 Q But you just told me to take
13 the first fixed rate of 4.484 percent,
14 subtract the spread, 150 basis points.
15 Then you PV that. So where does the LIBOR
16 curve come in at all?
17 A I said you said to define the
18 parameters. And that is -- the floating
19 rate is one of those parameters.
20 Q Okay. So the floating rate,
21 just for purposes of this, is 1.5 percent.
22 You are saying that comes off of the
23 4.484 percent?
24 A It comes off the structure is
25 what I said.

1 Peter Shapiro
2 of the original swap. And what's the
3 difference between the current market and
4 the market at the time that the contract
5 was entered into?
6 If the market at the time the
7 inception rate was 4.484, and, in the
8 current market, for something structured
9 the same way, it would be 1 percent, then
10 we have a differential of 3.484.
11 And that differential, if you
12 PVed it back to today, would be the value.
13 Q And that is how you understand
14 how the software works?
15 A That's how the software does
16 work.
17 Q Okay. But you also told me you
18 weren't familiar with the software and you
19 didn't use the software?
20 A No, I know how the models work.
21 I know the underlying principles --
22 Q And so why --
23 A So I don't know the details of
24 how you operate it.
25 Q So why even reference USD

1 Peter Shapiro
2 Q And the structure is
3 4.484 percent?
4 A The structure is 4.484 versus
5 three-month LIBOR. What you -- you don't
6 want to get to this issue where you get
7 into this repeated logical conundrum that
8 Jay kept getting caught in, which is
9 saying:
10 "Well, if you spread 150 off of
11 LIBOR, you'd get a nonsense result. You'd
12 get negative interest rates."
13 He wasn't asking about 150. He
14 was asking about the larger spread if we
15 put in the valuation, and the loss
16 calculation.
17 But the reality is, even if you
18 put a little spread in these days, you are
19 going to get to a negative interest rate.
20 (There was a discussion off the
21 record.)
22 A Get to a negative interest
23 rate.
24 So you don't want to look at
25 this and get caught in the impression that

1 Peter Shapiro
2 you are having some kind of absurd result
3 with negative interest rates.

4 Q I just want to make sure I
5 understand. So you say this software,
6 despite setting up a receive leg and a pay
7 leg, it, in fact, takes 4.484 percent in
8 version one, subtracts 1.5 percent from
9 that, and discounts the result to present
10 value?

11 A I am not saying that. I am
12 saying it does it off the structure. And
13 the structure as a whole looks at two legs:
14 One that we define as 4.484; and one that
15 it defines here as USD three-month LIBOR
16 minus 150, and looks at it as a whole.

17 Q And compares those two legs?

18 A Yeah, it doesn't go out and
19 say:

20 "Okay. On the -- on the
21 floating rate, it's going to be negative
22 interest rate until LIBOR exceeds 150."

23 It never does that.

24 Q And how do you know it never
25 does that?

1 Peter Shapiro
2 document, it's negative 3.874.
3 MR. LAWRENCE: Objection to the
4 form of the question.

5 A It shows a negative 3.874 on
6 that pay leg, yes.

7 Q And that's consistent with the
8 valuation that you did in Lehman 15 that we
9 looked at?

10 A I believe it is. But let's
11 just reference back to Lehman 15, which
12 is -- Lehman 15 -- the spread on Lehman 15
13 is a negative 3.874, which is the same
14 number.

15 Q So do you believe version two
16 reflects the analysis that is contained in
17 Lehman Exhibit 15?

18 A Let's take a look again. Okay.
19 The number that shows in the little
20 window -- do we have a -- do we have a
21 value that's shown here?

22 Q No, the values weren't provided
23 with these screen shots.

24 A Okay. You know, we have a
25 notional. We have that spread. Yes, it

1 Peter Shapiro
2 A Because it would be a nonsense
3 result. Negative interest rates are
4 something that creates all sorts of
5 problems.

6 (Exhibit No. Shapiro 44,
7 Version 2 Screen Shot from Principia
8 Software, Bates Nos. SFG 2396 to 2397,
9 is marked by the reporter for
10 identification.)

11 Q I am handing you what the court
12 reporter has marked as Shapiro Exhibit 44,
13 which is Bates stamped SFG 2396 through
14 2397, which is version two of the
15 Principia --

16 A Principia.

17 Q -- Principia screen shots.
18 These -- this screen shot was -- reflects
19 an analysis done on April 21, 2009.

20 A It says, "Entered as of
21 April 21st."

22 Q 2009?

23 A 2009.

24 Q And if you look at the spread
25 to LIBOR on the second page of this

1 Peter Shapiro
2 looks like it.

3 Q So you believe that version two
4 reflects the analysis that's captured in
5 Lehman Exhibit 15?

6 A It doesn't it's not reflecting
7 a value as you just pointed out to me.

8 Q But it's the inputs?

9 A It looks like it's got the
10 inputs, yes.

11 Q It looks like it would be the
12 inputs connected with Lehman Exhibit 15,
13 correct?

14 A Correct.

15 (Exhibit No. Shapiro 45,
16 Version 3 Screen Shot from Principia
17 Software, Bates Nos. SFG 2398 to 2399,
18 is marked by the reporter for
19 identification.)

20 Q I am handing you a document
21 what the court reporter has marked as
22 Shapiro Exhibit 45, which is titled
23 "Version Three" of the Principia screen
24 shots, Bates Nos. SFG 2398 through 2399.
25 This analysis was done -- it appears --

1 Peter Shapiro
2 based on the InterDat [phonetic] date on
3 April 28, 2010; do you see that?

4 A Yes.

5 Q And next to that, it says "by
6 Shapiro"; do you see that?

7 A Yes.

8 Q Did you do this analysis?

9 A No.

10 Q No. Then why is your name
11 written in there?

12 A I suspect that there is -- I
13 suspect that there are parts of the
14 Principia system that say -- that have a
15 user name. And you start with the user
16 name. And they set up one that was in my
17 name originally.

18 Q And if you look at Exhibit 44,
19 where it says "by," there is nothing in
20 there.

21 A Yes.

22 Q So why -- why is it -- when you
23 set it up, is your user name not showing up
24 in Exhibit 44?

25 A I have no idea.

1 Peter Shapiro
2 Q Do you believe that this
3 reflects that you became aware that the --
4 in April of 2010 that the maturity date was
5 May 2032?

6 MR. LAWRENCE: Object to the
7 form of the question.

8 A It's a -- you know, it's hard
9 to tell. It looks like that. But it could
10 be a data entry error that somebody made as
11 well. I doubt it. It looks like it's the
12 rate date. So it looks like somebody
13 became aware of it on that date in our
14 shop.

15 Q Now, does the software save the
16 different versions -- the software saves
17 the different versions that we are looking
18 at, correct?

19 A I don't know. I don't know, to
20 the extent you can overwrite, you save, if
21 it saves everything.

22 Q So you don't know, if you pull
23 up version two and you want to make version
24 three, whether you have to type in
25 everything from scratch or whether you

1 Peter Shapiro

2 Q And if you look at Exhibit 43,
3 your user name is not showing up in that
4 one either?

5 A No idea.

6 Q Do you recall your user name
7 being added between 2009 and 2010?

8 A No, my user name would have
9 been added when they originally put it in
10 because I think somebody had an imaginative
11 idea that I might, you know, run the
12 modeling myself.

13 Q But it's not showing up in the
14 first two screen shots?

15 A No.

16 Q And if you look at the second
17 page of Exhibit 45, it has a maturity date
18 stated as 30 May 2032. Do you see that?

19 A Yes.

20 Q Do you recall being aware that
21 the maturity date of the Washington RFA was
22 May 20, 2032, in April 2010?

23 A I don't recall what -- I think
24 you asked this earlier. I don't recall
25 what day we became aware of that.

1 Peter Shapiro

2 affirmatively -- there are some defaults
3 already in there?

4 A I have no clue.

5 Q And so you don't know how that
6 2032 date arrived in version three?

7 A No.

8 Q But you believe it -- you
9 believe it to be when you learned that the
10 RFA actually matured in 2032?

11 A When I look at it sitting here,
12 it would be an odd coincidence if it were a
13 typo, so, you know, to get the exact right
14 date on it. So I would just say guessing,
15 speculating, all of the things that I am
16 not supposed to do, that somebody at some
17 point prior to that found out that 2032 was
18 the right date because we know we did find
19 that out.

20 You know, there was nothing
21 nefarious about the change to 2042 to 2032.
22 As you know, we weren't originally supplied
23 with the correct date.

24 Q I'm now handing you a document
25 the court reporter has marked as

1 Peter Shapiro
2 Exhibit 46, which is version four of the
3 screen shots.
4 (Exhibit No. Shapiro 46,
5 Version 4 Screen Shot from Principia
6 Software, Bates Nos. SFG 2400 to 2401,
7 is marked by the reporter for
8 identification.)
9 Q It's Bates stamped SFG 2400
10 through 2401. This is also dated April 28,
11 2010, and indicates your name in the "by"
12 line; do you see that?
13 A Yes.
14 Q I don't see any differences
15 between version three and version four. Do
16 you know why two versions of the analysis
17 was done on the same day in April of 2010?
18 A I have no clue.
19 (Exhibit No. Shapiro 47,
20 Version 5 Screen Shot from Principia
21 Software, Bates Nos. SFG 2402 to 2403,
22 is marked by the reporter for
23 identification.)
24 Q Handing you what has been
25 marked as Shapiro Exhibit 47, which is

1 Peter Shapiro
2 on anything else.
3 Q I am handing you a document
4 that has been marked as Shapiro Exhibit 48,
5 which is version six of the screen shots.
6 Its Bates stamp is SFG 2404 through 2405.
7 It's also dated on June 15, 2010, which is
8 the same date as version five.
9 Do you see that?
10 A Yes.
11 Q Do you know why two versions of
12 the analysis were run on the same day in
13 June 15th, 2010?
14 A You know, I answered previously
15 I don't know why the first one was run. I
16 certainly don't know why the second one was
17 run.
18 Q Okay.
19 (Exhibit No. Shapiro 49,
20 Version 7 Screen Shot from Principia
21 Software, Bates Nos. SFG 2406 to 2408,
22 is marked by the reporter for
23 identification.)
24 Q I am handing you what has been
25 marked as Shapiro Exhibit 49, which is

1 Peter Shapiro
2 version five of the screen shot, Bates
3 stamped SFG 2402 through 2403. This is
4 dated June 15, 2010.
5 Do you see that?
6 A Yes.
7 Q And do you -- and it appears to
8 be -- it's the same analysis, the same
9 inputs as we saw in version three and in
10 version four which were done in April 2010.
11 Do you know any reason that the
12 analysis was again run in June of 2010?
13 A No idea.
14 (Exhibit No. Shapiro 48,
15 Version 6 Screen Shot from Principia
16 Software, Bates Nos. SFG 2404 to 2405,
17 is marked by the reporter for
18 identification.)
19 Q And on -- I'm sorry. On
20 Shapiro Exhibit 47, it does say "by
21 Shapiro"; but you did not run that
22 analysis?
23 A No, I have never -- as I
24 said -- I just repeat. I have never run an
25 analysis in Principia, not on this and not

1 Peter Shapiro
2 version seven of the screen shots. Its
3 Bates stamp is SFG 2406 through 2408. Do
4 you see that?
5 A Yes.
6 Q And this analysis indicates
7 that it was run on June 16, 2010. Do you
8 see that?
9 A Yes.
10 Q And if you turn to the second
11 page of the screen shot, the maturity date
12 has been changed to 30 May 2042. Do you
13 see that?
14 A I can't say it has been changed
15 to that. I can just say it shows that.
16 Q Okay. In version six it shows
17 2032, correct?
18 A Right, yes.
19 Q So you don't think it's a
20 change from 2032 to 2042?
21 A You characterize -- you can see
22 that it has been changed, you know. I
23 can't characterize it. I can just say it
24 says 2042.
25 Q Okay. Do you know why it was

1 Peter Shapiro
2 changed to 2042?

3 A I'm not --

4 MR. LAWRENCE: Objection --
5 object to the form of the question.
6 It's argumentative. It's assuming
7 facts not in evidence.

8 Q Do you believe that there was a
9 change in the maturity date between version
10 six and version seven of the software?

11 A I believe it's self-evident
12 from reading it that one of them has 2042
13 and one of them has 2032. That's all I can
14 say.

15 Q And why was the analysis in
16 version seven of the software Exhibit 49
17 run as of 2042?

18 A I have no clue.

19 Q Why wasn't it run as of 2032?

20 MR. LAWRENCE: Object to the
21 form.

22 A If I didn't have a clue as to
23 2042, I couldn't have an idea about what
24 was in 2032. I think you are badgering me
25 here.

1 Peter Shapiro
2 A Let me just confirm that before
3 I answer. Six, yes. Five, yes. Four,
4 yes. Three, yes.

5 Q And if you turn the page to
6 Bates stamp 2408, it does the analysis --
7 it reflects the analysis was done assuming
8 a spread to LIBOR of minus 20 basis points;
9 do you see that?

10 MR. LAWRENCE: Object to the
11 form.

12 A Yes. I see that.

13 Q Why was that analysis done?

14 A I have no idea.

15 Q You don't recall any
16 discussions of the need to value the
17 reserve fund agreement assuming LIBOR minus
18 20 basis points?

19 A I don't.

20 Q Would your staff have run an
21 analysis of the reserve fund agreement
22 without discussing it with you.

23 MR. LAWRENCE: Objection.
24 Calls for speculation.

25 A They certainly could. They

1 Peter Shapiro

2 Q Who would know why the maturity
3 date changed between version six to version
4 seven of 2032 to 2042?

5 A I don't know. You know,
6 whoever did this, you know, logged in under
7 Shapiro, you know my name, so you can't
8 tell.

9 Q And who was doing the analysis
10 of the RFA in June of 2010?

11 A It would have most likely been
12 either James Vergara or Lilian Chern, but I
13 can't tell.

14 Q And you had -- do you recall
15 any discussions about the need to value the
16 RFA in June of 2010 assuming a maturity of
17 2042?

18 A Not that I can recall.

19 Q And if you look at page 2407,
20 it assumes a spread to LIBOR of minus
21 3.874 percent; do you see that?

22 A Yes.

23 Q And that's consistent with the
24 numbers we have seen in versions three
25 through six, correct?

1 Peter Shapiro

2 don't clear with me ever running an
3 analysis. Their job is to be mature
4 people, thinking on their feet, and going
5 through anything they think might be
6 relevant.

7 Q And you don't recall any
8 discussion with anyone about valuing the
9 reserve fund agreement at LIBOR minus
10 20 basis points?

11 A I can't recall anything like
12 that.

13 Q Either internally or with
14 Washington TSA?

15 A No.

16 You did introduce previously
17 another exhibit that I think had a LIBOR
18 minus 20 indication; didn't you?

19 Q Yes, there is one.

20 A Yeah, so it could have been --
21 it could have been along with that. But
22 it's just speculating for me. I don't
23 know.

24 Q So you don't have any
25 discussion of needing to value the LIBOR

1 Peter Shapiro
2 minus 20?
3 A Not that I can recall.
4 Q You don't recall any discussion
5 of -- let me restate that.
6 Do you recall valuing the
7 reserve fund agreement and any other
8 spreads to LIBOR other than LIBOR minus 150
9 and LIBOR minus 3.874?
10 A I generally recall we looked at
11 lots of scenarios.
12 Q And why did you look at those
13 other scenarios?
14 A Trying to see where Lehman
15 might come in. Trying to look at what, you
16 know, other concepts might be, how much
17 would it affect the, you know, the
18 valuation level.
19 Q Where did you think Lehman
20 would come in?
21 A I don't recall forming an
22 opinion on that. You know, we had --
23 remember, I recorded in those notes that
24 you read in the prior exhibit some
25 discussions with the Lehman team.

1 Peter Shapiro
2 Washington TSA, to get paid fairly for
3 Lehman's failure to fulfill its contract.
4 And we know Lehman had a strong
5 incentive to short-change Washington TSA
6 and continues to this date to try to do so.
7 Q And so you assume that LIBOR
8 minus 20 was your attempt to reflect where
9 you thought Lehman would value the
10 contract?
11 A Perhaps.
12 (Exhibit No. Shapiro 50,
13 Version 8 Screen Shot from Principia
14 Software, Bates Nos. SFG 2409 to 2411,
15 is marked by the reporter for
16 identification.)
17 Q I am handing you what the court
18 reporter has marked as Shapiro Exhibit 50,
19 which is version eight of the screen shots,
20 Bates stamped SFG 2409 through 2411. It's
21 also dated June 16, 2010, as is version
22 seven.
23 Do you have any idea why
24 initial analyses were run on June 16, 2010?
25 A No.

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1 Peter Shapiro
2 And at that point, maybe they
3 threw out a spread number. You know, we
4 would have to go back to my notes if I
5 reflected that. It's possible that it was
6 something they threw out. I don't know.
7 Q And you said you did other
8 spreads to LIBOR to see how they would
9 affect the valuation?
10 A I said we may have done that.
11 Q And do you recall what other
12 spreads to LIBOR you considered?
13 A No, we wanted to look at what
14 we thought was the proper spread based upon
15 rigorously examined inputs that would be
16 fair and reasonable.
17 Q And you looked at LIBOR minus
18 20 basis points?
19 A No, we -- if we looked at LIBOR
20 minus 20, it certainly wasn't based upon a
21 rigorous analysis as to what was fair and
22 reasonable. It was based upon what Lehman
23 would try to assert in their own
24 self-interest to try to minimize the amount
25 they had to pay on the legitimate claims of

1 Peter Shapiro
2 Q And it indicates it's "by
3 Shapiro." But you did not run this
4 analysis?
5 A Exactly.
6 Q And it also reflects on pages
7 2410 and 2411 that the maturity date is
8 May 2042?
9 A Correct.
10 Q And do you recall there being
11 discussion about the appropriateness of
12 using May 2042 as the analysis date in
13 June 2010?
14 A I have -- again, I don't recall
15 what date it was when we looked at -- when
16 we realized that it should be 2032.
17 Q And if you look at page 2410,
18 it shows a spread to LIBOR of minus
19 1.1 percent; do you see that?
20 A Yes.
21 Q What does that spread to LIBOR
22 represent?
23 A It doesn't -- it doesn't ring
24 any bells with me.
25 Q And do you believe that to be

1 Peter Shapiro
2 an evaluation of where you thought Lehman
3 might come in?

4 A I have no -- I really have no
5 clue.

6 Q And do you believe that it was
7 an analysis that Swap Financial did to
8 assess the reasonableness of its valuation?

9 A Reasonable of Swap Financial's
10 valuation?

11 Q Yes.

12 A No.

13 Q You have no idea why Swap
14 Financial used 1.1 percent in this analysis
15 done on June 10, 2010?

16 A That's what I said.

17 Q And then if you turn to
18 page 2411, it shows the swap -- I'm
19 sorry -- the spread to LIBOR being minus
20 basis points; do you see that?

21 A Yes.

22 Q And why was that analysis run
23 again on June 2010?

24 A I have no clue.

25 (Exhibit No. Shapiro 51,

1 Peter Shapiro
2 Q And do you know -- and do you
3 recall anything going on in connection with
4 TSA or its discussions with Lehman in
5 June 2010 that would necessitate this
6 analysis?

7 A I could go back and look at my
8 calendar if there was some discussion going
9 on; or, if you have another exhibit that
10 shows that there were E-Mails going back
11 and forth, that would help, but nothing I
12 can recall as I sit here.

13 (Exhibit No. Shapiro 52,
14 Version 10 Screen Shot from Principia
15 Software, Bates Nos. SFG 2415 to 2417,
16 is marked by the reporter for
17 identification.)

18 Q Now handing you a document that
19 has been marked as Shapiro Exhibit 52,
20 which is version ten of the analysis done
21 by the Principia software screen shots, so
22 it's Bates stamped SFG 2415 through 2417.
23 It appears, based upon the first page, that
24 that analysis was done on June 22, 2010.
25 Do you see that?

1 Peter Shapiro
2 Version 9 Screen Shot from Principia
3 Software, Bates Nos. SFG 2412 to 2414,
4 is marked by the reporter for
5 identification.)

6 Q I am handing you a document
7 that has been marked as Shapiro Exhibit 51,
8 which is version nine of the screen shots,
9 Bates stamped SFG 2412 through 2414. It
10 reflects that the analysis was done also on
11 June 16, 2010. And it appears to be
12 identical with version eight of the screen
13 shot.

14 Do you know why the analysis
15 was run yet again on June -- June 16, 2010?

16 A I can see this was done
17 36 minutes after the last one you asked me
18 the questions about. The answers are going
19 to be the same.

20 Q So you have no idea why --

21 A Same answers from last time.

22 Q I'm sorry.

23 You have no idea why three sets
24 of analyses were done on June 16, 2010?

25 A No.

1 Peter Shapiro
2 A Yes.
3 Q Do you have any idea why
4 additional analyses were run six days later
5 of the RFA?

6 A No.

7 Q And do you recall discussions
8 on June 22, 2010, about the need for the
9 analysis to be run through May 2042?

10 A I have no such recollection.

11 Q And in this analysis the two
12 spreads to LIBOR that were being considered
13 are 3.874 and the minus 20 basis points,
14 correct?

15 A Correct.

16 (Exhibit No. Shapiro 53,
17 Version 11 Screen Shot from Principia
18 Software, Bates Nos. SFG 2418 to 2420,
19 is marked by the reporter for
20 identification.)

21 Q I am handing you a document
22 that has been marked as Shapiro Exhibit 53,
23 which is version 11 of the screen shots.
24 It's Bates stamped 2418 through 2420.

25 According to the cover sheet, this analysis

1 Peter Shapiro
2 was run on June 23, 2010.
3 Do you see that?
4 A Yes.
5 Q Do you have any ideas why this
6 analysis was run a day after the analysis
7 done in version ten?
8 A No.
9 Q And the analysis here also
10 contains the two spreadsheets to LIBOR seen
11 in version ten, the 3.874 and the 20 basis
12 points, correct?
13 A I see that.
14 Q And both of those are negative
15 spreads to LIBOR, correct?
16 MR. LAWRENCE: Objection to the
17 form.
18 A Both of them say -- have a
19 minus sign in front of them.
20 Q And you did not do this
21 analysis either?
22 A What did I say earlier?
23 Q You haven't done any of these
24 analyses, but I just want to make sure
25 because they have your name on them.

1 Peter Shapiro
2 Q And it also contains the same
3 spreads to LIBOR, the minus 3.874 and the
4 minus 20 basis points, correct?
5 A Correct.
6 Q And you don't know why this
7 analysis was done?
8 A No, all I can speculate at this
9 point is that perhaps it was to kill trees
10 on all of these printouts that have been
11 done.
12 That was an attempt at humor
13 just for the record.
14 (Exhibit No. Shapiro 55,
15 Version 13 Screen Shot from Principia
16 Software, Bates Nos. SFG 2424 to 2426,
17 is marked by the reporter for
18 identification.)
19 Q The court reporter has handed
20 you a document that has been marked as
21 Shapiro Exhibit 55, which is Bates stamped
22 SFG 2424 through 2426, version 13 of the
23 screen shots. It appears to have been done
24 on July 14, 2010.
25 Do you see that?

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1 Peter Shapiro
2 A Okay. What did I say about
3 that issue, though?
4 Q I'd prefer you testify that
5 none of these --
6 A I have never logged onto this
7 system for doing analyses. I'll just make
8 sure that's clear, not just for this, but
9 for any other analysis.
10 (Exhibit No. Shapiro 54,
11 Version 12 Screen Shot from Principia
12 Software, Bates Nos. SFG 2421 to 2422,
13 is marked by the reporter for
14 identification.)
15 Q The court reporter has handed
16 you a document that has been marked as
17 Shapiro Exhibit 54, which is version 12 of
18 the screen shots, Bates numbered SFG 2421
19 through 2423. It appears that this
20 analysis was done on June 23, 2010.
21 Do you see that?
22 A Yes.
23 Q Which is the same day as the
24 analysis done on version 11?
25 A Three hours later.

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1 Peter Shapiro
2 A Yes.
3 Q Do you have any idea why the
4 analysis was run again on July 14, 2010?
5 A No.
6 Q And as with version 11 and
7 version 12, the same spreads to LIBOR are
8 used of the minus 3.874 percent and the
9 minus 20 basis points; do you see that?
10 A I see that.
11 Q And the maturity date is the
12 same as seen in version 11 and version 12
13 showing May 2042, correct?
14 A That's what it says.
15 Q And you don't know why this was
16 done?
17 A No.
18 MR. LAWRENCE: Can we take a
19 two-minute break?
20 MS. SAWYER: Sure.
21 THE VIDEOGRAPHER: Off of the
22 record. The time is 2:17 p.m.; we are
23 going off the record.
24 (A break is taken.)
25 THE VIDEOGRAPHER: The time is

1 Peter Shapiro
2 2:22 p.m., October 16, 2014. This is
3 tape number three in the videotaped
4 deposition of Mr. Peter Shapiro.
5 CONTINUED EXAMINATION
6 BY MS. SAWYER:
7 Q The screen shots that we were
8 looking at in 2010 where your name is
9 listed in the "by" line -- do you recall?
10 A Yes.
11 Q And who would have been doing
12 that analysis on the Principia software?
13 A It would have to be -- you
14 know, there are three people who used this
15 system primarily, or would have been using
16 it at that time: James Vergara, Lilian
17 Chern, and Jim Murphy.
18 Jim Murphy didn't work on this
19 at all, so it would be one of those, one of
20 the first two.
21 Q And was Mr. Vergara still at
22 Swap Financial in July of 2010?
23 A I can't remember the date he
24 left. We -- did we establish that
25 previously?

1 Peter Shapiro
2 A Yes.
3 Q And if you look at the "by"
4 line, it's by Chern; do you see that?
5 A Yes.
6 Q If Ms. Chern had done the
7 earlier analyses, do you know why she
8 wouldn't have logged in as herself?
9 MR. LAWRENCE: Objection.
10 Calls for speculation.
11 A She -- if she -- if she was
12 trying to open something that had already
13 been created under a different log, then
14 she might have logged in as somebody else.
15 Q But this is version 16 of the
16 same analysis, correct?
17 A Yes, it looks like it.
18 Q Okay. I mean, it says
19 version -- it says "rev 16"; do you see
20 that?
21 A Yes.
22 Q Do you have any reason to doubt
23 that's not version 16 of the same analysis?
24 A I don't know how that -- how it
25 works down there.

1 Peter Shapiro
2 Q I am asking you the question if
3 you know if he was there in July of 2010.
4 A I answered I can't remember.
5 Q So looking at Shapiro
6 Exhibit 55, which is dated July 2010, where
7 it says "Shapiro," that analysis either
8 would have been done by Ms. Chern or
9 Mr. Vergara?
10 A I believe so.
11 (Exhibit No. Shapiro 56,
12 Principia Screen Shot: Termination
13 Date 2042, Market Value as of 3/25/09,
14 Bates Nos. SFG 2388 to 2389, is marked
15 by the reporter for identification.)
16 Q I am handing you a document
17 that has been marked as Shapiro Exhibit 56,
18 which is -- if you look at the bottom, it's
19 version 16 of the screen shots. And its
20 Bates stamps are 2388 and 2389.
21 Do you see that?
22 A Correct.
23 Q And according to the InterDat
24 date, this analysis was done on May 7,
25 2012; do you see that?

1 Peter Shapiro
2 Q Okay. And here the analysis is
3 done of a LIBOR spread of a minus
4 3.874 percent on both pages; do you see
5 that?
6 MR. LAWRENCE: Object to the
7 form.
8 A I see that.
9 Q And it's done as of two
10 different maturity dates; do you see that?
11 A Yes.
12 Q Why the two maturity dates?
13 A My guess is, looking at the
14 date. This was around the time that we
15 found out -- this is right around the time
16 of the mediation. And I think that was
17 around the time we found out about the
18 change in the dates.
19 But, you know, again, as I
20 testified earlier, I'm not certain when we
21 fount out about it. But I am remembering
22 it being around the time of the mediation.
23 MR. LAWRENCE: Just to make
24 sure the record is clear, these are
25 the two that I sent you. And they

1 Peter Shapiro
2 were printed by Lilian Chern around
3 the date that you received them.
4 MS. SAWYER: Okay.
5 MR. LAWRENCE: Just because
6 these are not -- these were -- you
7 know, the stuff on the top here was
8 put on by Ms. Chern, not by Principia.
9 MS. SAWYER: There is a
10 different format of these versus the
11 other screen shots we looked at.
12 MR. LAWRENCE: Only that
13 there's a narrative on the top line.
14 That's -- I just want to make that
15 clear.
16 MS. SAWYER: Okay.
17 Q And you believe that in
18 May 2012 was around the time that Swap
19 Financial learned that the maturity date of
20 the RFA was 2032?
21 A We have gone over this before.
22 I am trying to remember. You know, we
23 look -- I, you know -- sitting -- sitting
24 here for me to try to recall from my memory
25 as I sit here doesn't really help.

1 Peter Shapiro
2 So if him needing to know the date of
3 the mediation is critical for him to
4 explain why there are two maturity
5 dates, we can go back and look and
6 spend the time to do that; or we could
7 move on to my next question.
8 MR. LAWRENCE: Well, I think,
9 as I said, 56 was printed out at my
10 request in whatever -- 2013, or
11 whenever I sent it to you, 2014. So
12 that's why these two particular ones
13 were created and printed.
14 Q Are you aware of any subsequent
15 versions to the version of the analysis
16 done, reflected in Shapiro Exhibit 16,
17 which was done on or around May 7, 2012?
18 MR. LAWRENCE: Shapiro 16.
19 A 16?
20 Q 56, sorry.
21 A Am I aware -- could you read
22 that back, please.
23 Q I will just restate it.
24 Okay. Are you aware of any
25 subsequent valuations using the Principia

1 Peter Shapiro
2 Obviously, we found out
3 factually on a certain date when the
4 maturity changed. I know we knew it before
5 the mediation because it was an issue going
6 into the mediation, you know, that we had
7 found out about that.
8 Q And since version 16 that
9 was --
10 A You had said earlier, Lauri --
11 what was the date of the mediation?
12 Q This isn't -- this isn't a
13 situation where we ask questions -- you ask
14 questions of me. I ask questions of you.
15 A Could I ask him to read back
16 the record to find what you said the date
17 of the mediation was.
18 Q I think you have answered my
19 question. I will ask my next question.
20 A Okay.
21 MR. LAWRENCE: You have given
22 him that information before, but
23 whatever.
24 MS. SAWYER: I mean, my
25 question was why two maturity dates.

1 Peter Shapiro
2 software by Swap Financial after May 7,
3 2012, as reflected in Shapiro Exhibit 56?
4 A No.
5 Q So since that time no one has
6 logged onto the software to conduct a
7 subsequent analysis?
8 A I can't say that. You asked me
9 if I was aware of it. I am not aware of
10 it.
11 Q You are not aware of any?
12 A No, I don't track this -- you
13 know, the software as I mentioned before.
14 Q So there has been no analysis
15 done of the new spread to LIBOR implied by
16 your rebuttal report?
17 A Not that -- I am not certain.
18 I don't know.
19 Q Who would know?
20 A Lilian might know.
21 Q But you are not aware of a
22 valuation being done in connection with
23 your rebuttal report?
24 A I have to look back at the
25 rebuttal report and read it over because

1 Peter Shapiro
 2 the rebuttal report indicated something had
 3 been done. You know, it would indicate a
 4 new value. If it shows a new value, it
 5 would imply that a new valuation had been
 6 done.

7 Q I am handing you a document
 8 that has been premarked Lehman Exhibit 12,
 9 which is a -- for the record, is a
 10 declaration from you, Peter Shapiro, dated
 11 January 14, 2009. And, specifically, I
 12 wanted to turn to paragraph seven of your
 13 declaration where you provide a valuation
 14 of the RFA as of January 12, 2009.

15 Do you see that?

16 A Yes, I see that.

17 (Previously Marked Exhibit No.
 18 Lehman 12, Declaration of Peter
 19 Shapiro, Bates Nos. LBHI WTSA 16384 to
 20 16389 is introduced into the
 21 proceedings.)

22 Q And if you look at Shapiro
 23 Exhibit 43, which is version one of the
 24 screen shots --

25 A I have got it.

1 Peter Shapiro
 2 you a document that has been marked as
 3 Shapiro Exhibit 57, which is Bates stamped
 4 SFG 2322 through 2324, which is an E-Mail
 5 chain. And the first E-Mail is dated
 6 April 30, 2012.

7 Let me know when you have had a
 8 chance to review it.

9 A Okay.

10 MR. LAWRENCE: I don't think
 11 this was a document that was recently
 12 produced.

13 MS. SAWYER: Really? I feel
 14 quite certain that this one was
 15 recently produced.

16 MR. LAWRENCE: I am going -- I
 17 am going off the index that was
 18 provided to you.

19 MS. SAWYER: I mean -- I mean,
 20 if you want -- I probably have a
 21 couple of questions on it. If you
 22 want tell me not to, we can --

23 MR. LAWRENCE: No, I mean, if
 24 you just have a couple of questions,
 25 it's fine. I am looking at the index.

1 Peter Shapiro

2 Q That was done, we established,
 3 on or around March 30, 2009; do you see
 4 that?

5 A It says "entered" on that date.

6 Q Was the valuation found in
 7 Shapiro -- or I'm sorry -- in Lehman
 8 Exhibit 12, was that calculated with the
 9 use of the Principia software?

10 A I don't know.

11 Q You don't know how it was
 12 calculated?

13 A No.

14 Q You weren't aware of any screen
 15 shots that might reflect the spread to
 16 LIBOR implied in that valuation?

17 A No.

18 (Exhibit No. Shapiro 57, E-Mail
 19 chain, top E-Mail dated 4/30/12 from
 20 Peter Shapiro to Carol Johnson and
 21 Lilian Chern; Subject: TSA -- Lehman
 22 Call Today, Bates Nos. SFG 2322 to
 23 2324, is marked by the reporter for
 24 identification.)

25 Q The court reporter has handed

1 Peter Shapiro

2 I don't see it on it. So --

3 MS. SAWYER: I tried to -- I
 4 tried to focus only on the documents
 5 that we had gotten. So --

6 A I have read through it.

7 Q If you look at the third E-Mail
 8 down from Lilian Chern to Carol Johnson and
 9 Peter Shapiro that starts, "Carol, I have
 10 incorporated our analysis"; do you see
 11 that?

12 A Yes.

13 Q "Carol, I have incorporated our
 14 analysis on the LIBOR spread components
 15 into Bob's spreadsheet so we can see some
 16 actual numbers under different scenarios
 17 and tweak any assumptions if we need to."

18 Do you see that?

19 A Yes.

20 Q Do you know what "Bob's
 21 spreadsheet" is?

22 A No.

23 Q Do you know what analysis Swap
 24 Financial was doing on LIBOR spread
 25 components?

1 Peter Shapiro

2 MR. LAWRENCE: I am going to
3 instruct him not to answer because
4 this relates to analysis that was done
5 for purposes of mediation. These
6 particular documents -- it doesn't
7 reveal the substance, but your
8 question goes into the substance of
9 what was done for purposes of the
10 mediation.

11 (There was an instruction not
12 to answer.)

13 MS. SAWYER: Either one of you
14 answer this.

15 But just to be clear, so there
16 was a LIBOR spread component analysis
17 done for purposes of the mediation, or
18 is that a question that --

19 MR. LAWRENCE: I don't -- I
20 don't know. But if it was done, which
21 Lilian -- I don't have any reason to
22 doubt Lilian's veracity.

23 MS. SAWYER: Okay. So we are
24 cutting off further questions or --

25 MR. LAWRENCE: I mean, I guess,

1 Peter Shapiro

2 Q And do you know if that
3 spreadsheet that Mr. Cook prepared
4 projected any future losses past that
5 specific date?

6 A I don't believe so.

7 Q And has Swap Financial done any
8 analysis of that spreadsheet relating to
9 its LIBOR spread?

10 A Relating to whose LIBOR spread?

11 Q Relating to the LIBOR spread of
12 those assumptions that Mr. Cook has.

13 A His weren't assumptions. They
14 were actual losses.

15 Q Do you know what this phrase
16 means that -- "our analysis on the LIBOR
17 spread components into Bob's
18 spreadsheet" -- do you have any
19 understanding of how the LIBOR spread
20 components would interact with Mr. Cook's
21 spreadsheet?

22 A In terms of the reference to
23 "Bob's spreadsheet" here? You asked me a
24 different question. Maybe -- there may
25 have been -- this may not have been the

1 Peter Shapiro

2 if you want to ask him, "Do you know
3 whether or not a LIBOR spread
4 component was done," you can ask that.
5 What I don't want to get into is any
6 substantive questions about what was
7 in either Bob's spreadsheet or the
8 LIBOR components that were done for
9 purposes of the mediation.

10 So if you can ask a question
11 that draws -- whatever, walks that
12 line, that's fine.

13 Q Are you aware that Mr. Cook
14 prepared a spreadsheet where he purported
15 to calculate TSA's actual losses?

16 A By "actual losses," can I ask
17 you what you mean?

18 Q Well, that's what Mr. Cook
19 calls the spreadsheet. So are you familiar
20 with the spreadsheet where Mr. Cook
21 purports to calculate actual losses as he
22 defines them?

23 A I'm aware of a spreadsheet
24 where Mr. Cook calculated the actual losses
25 you through a certain date. Yes.

1 Peter Shapiro

2 same spreadsheet I was aware of that was
3 calculating actual cash losses to date.

4 That would not have required
5 any LIBOR spread analysis. That was based
6 on hard numbers.

7 Q And do you -- are you -- do you
8 recall any analysis done by Swap Financial
9 relating to the spreadsheet that you are
10 describing Mr. Cook calculated of actual
11 losses?

12 A Any analysis we would have done
13 on it, I don't believe so. This was --
14 that was his analysis looking at the actual
15 cash losses.

16 Q And so you don't know what this
17 is referring to in terms of Lilian's report
18 about "incorporating our analysis" into the
19 spreadsheet?

20 A Into Bob's spreadsheet, no.

21 Q Okay.

22 MS. SAWYER: If we just take a
23 break, because I want to look at the
24 documents you sent me, but then I am
25 close to done.

1 Peter Shapiro
2 MR. LAWRENCE: Sure.
3 THE VIDEOGRAPHER: The time is
4 2:38 p.m.; we are going off the
5 record.
6 (There was a discussion off the
7 record.)
8 (A break is taken.)
9 THE VIDEOGRAPHER: The time is
10 2:50 p.m.; we are back on the record.
11 (Exhibit No. Shapiro 58, E-Mail
12 chain, top E-Mail dated 7/14/10 from
13 Peter Shapiro to Kim Herman; Subject:
14 Washington TSA, Four-Page Document, No
15 Bates numbers, is marked by the
16 reporter for identification.)
17 Q I am handing you a document
18 that has been marked as Shapiro Exhibit 58,
19 which I just realized does not have a Bates
20 number on it. But was just produced by
21 counsel to us.
22 MR. LAWRENCE: Yes.
23 MS. SAWYER: We can get the
24 Bates number and --
25 Q It is an E-Mail chain. The top

1 Peter Shapiro
2 A Only from reading this.
3 Obviously, I reflected that part of the
4 conversation, and Kim reflected it very
5 strongly.
6 Q And Kim was outraged that the
7 notion that he might have to pay Lehman
8 something, correct?
9 MR. LAWRENCE: Objection to the
10 form.
11 A I am just reading here the
12 wording that he uses at the bottom of his
13 July 14, 5:47 p.m. E-Mail. When he says
14 "It will be a cold day in hell that we pay
15 Lehman anything" does connote some degree
16 of outrage.
17 Q And do you -- you don't recall
18 how the concept of TSA owing Lehman a
19 termination payment arose -- if it was
20 raised --
21 A How.
22 Q I mean, how did that come up in
23 the conversation?
24 A You know, I can't recall. It's
25 clear from what's written here that Sandeep

1 Peter Shapiro
2 E-Mail is dated July 14, 2010. It's a
3 multi-page document. I will give you a
4 chance to look through this.
5 Do you recall this E-Mail
6 exchange?
7 A I do.
8 Q What do you -- do you recall
9 having discussions in addition to this
10 E-Mail exchange?
11 A I don't.
12 Q And this E-Mail exchange seems
13 to arise in connection with a call that
14 Swap Financial and TSA had with Lehman in
15 July of 2010; is that fair?
16 A Part of it does deal with that.
17 Yes.
18 Q And do you recall that call
19 that took place in July of 2010?
20 A I don't recall the specific
21 call.
22 Q Okay. Do you recall during
23 that discussion with Lehman in July of 2010
24 Lehman raising the notion that TSA may owe
25 it a termination amount?

1 Peter Shapiro
2 raised it.
3 Q And you respond to Mr. Herman
4 by saying:
5 "There is less than a zero
6 chance that you will have to pay Lehman
7 anything."
8 Correct?
9 A Yes.
10 Q And why do you feel that?
11 A Why do I feel that or why --
12 Q Do you feel that's true?
13 A Yes, given the fact that the
14 Lehman estate has offered something more
15 than zero and we are -- we are claiming
16 something more than what they have offered.
17 I don't think there is any way we get to
18 zero.
19 Q And so your statement made in
20 the top of the E-Mail on Shapiro Exhibit 58
21 is based upon the settlement proposal made
22 by Lehman?
23 A On the telephone call?
24 Q Yes.
25 A I don't think so.

1 Peter Shapiro
2 Q So what is the basis of your
3 conclusion that it's less than zero chance
4 that TSA will have to pay Lehman anything?
5 A That the contention -- that
6 Lehman would have to -- that Washington
7 would have to pay Lehman was so absurd
8 that -- as to be almost laughable.
9 Q What is the basis of your
10 contention that it's "absurd"?
11 A If you guys are saying your
12 offer is 4 million, then, obviously, a
13 contention that Washington should pay you
14 is absurd.
15 Q And so your recollection of the
16 call was that there was an offer to pay --
17 that -- that Lehman would pay Washington
18 \$4 million?
19 A No, my knowledge now because
20 you were asking as of now.
21 Q In July of 2010 --
22 A Yes.
23 Q -- there was a phone call with
24 Lehman where apparently the notion was
25 raised that Washington TSA might have to

1 Peter Shapiro
2 to Lehman -- I'd say there is no chance
3 that that would ever prevail.
4 Q And what's the basis of your
5 contention that it's an absurd -- absurd
6 notion?
7 A Based upon everything we know
8 about value.
9 Q Based upon your expertise?
10 A Based upon expertise, knowledge
11 of the markets, experience, understanding
12 of that and the like. And, you know, if
13 you look, you will see what I say here:
14 "This is really just part of
15 the negotiations."
16 That is, we read this as a
17 strategy by Lehman to try to scare the
18 client.
19 Q And in the second paragraph of
20 your E-Mail at the first page of Shapiro
21 Exhibit 58, you say in parentheses:
22 "... and are, in fact, serving
23 as expert witnesses on similar issue on a
24 Federal court case unrelated to Lehman."
25 A Correct.

1 Peter Shapiro
2 pay Lehman something; is that correct?
3 A No, there was a -- not that
4 they might have to pay. No. There was --
5 Q What --
6 A There was an argument being
7 made by a Lehman representative that he
8 felt that fair value would be such that
9 Washington TSA would have to pay.
10 Q And that was raised in this
11 July 2010 call?
12 A According to this E-Mail chain.
13 Q Okay. And also on that
14 July 2010 call, was there an offer of
15 settlement made by Lehman to settle the
16 matter for \$4 million payable to
17 Washington?
18 A I don't see that.
19 Q So what's the basis of your
20 conclusion in July 2010 that there is a
21 zero chance that TSA would have to pay
22 Lehman anything?
23 A It was such an absurd notion
24 that the payment would go in that
25 direction, in the direction from Washington

1 Peter Shapiro
2 Q What court case were you an
3 expert witness in connection with the
4 arguments relating to the forward curve?
5 A I was not the expert witness
6 there. When I say "we," I am referring to
7 the firm.
8 Q And who was the witness?
9 A Nat Singer.
10 Q And what case was that?
11 A I am trying to remember the
12 name of it.
13 Q Did Mr. Singer testify in
14 court?
15 A I can't remember how far along
16 it got, you know, whether it settled. I am
17 not remembering the details.
18 MS. SAWYER: Okay. I would
19 make a request for information
20 regarding Mr. Singer's testimony, if
21 there is any, related to the forward
22 curve in that case.
23 (Request for information
24 regarding Mr. Singer's testimony
25 related to the forward curve in other

1 Peter Shapiro
2 case.)
3 MR. LAWRENCE: Can you follow
4 up with an E-Mail?
5 MS. SAWYER: Yes, absolutely.
6 Q Then in the next paragraph you
7 say:
8 "We made a small amount of
9 progress in what I call quote etting the
10 table" -- "etting," I think it's a typo,
11 but e-t-t-i-n-g -- "for more serious
12 discussions."
13 What did you mean by that?
14 A Yeah, I -- you know, it looks
15 like there was something wrong in the
16 printing of this because there are multiple
17 places where first letters are dropped.
18 You know, so that is obviously "setting the
19 table."
20 What did I mean by we made
21 progress in "setting the table"?
22 Q Yes.
23 A That we, you know, got the
24 discussion going in terms of what the
25 spread should be. As you'll see in the

1 Peter Shapiro
2 MS. SAWYER: Um-hum.
3 A I have got it in front of me.
4 Q And this has a -- it says it
5 was entered at, what, July 14, 2010; do you
6 see that?
7 A Yes.
8 Q And it has the analysis being
9 done of a spread to LIBOR -- two spreads to
10 LIBOR, a minus 3.874 and a minus 20 basis
11 points; do you see that?
12 A Yes.
13 Q And looking at Shapiro
14 Exhibit 56 -- 58, the E-Mail we were just
15 looking at, does that help you understand
16 why those two spreads to LIBOR were being
17 analyzed on July 14, 2010?
18 A If we looked back at the
19 numerous exhibits you gave me on the
20 Principia screen shots, is that the first
21 time that the minus 20 emerges?
22 Q It is not.
23 A It's not. So a minus 20 was
24 used earlier?
25 Q Yes.

1 Peter Shapiro
2 prior paragraph, I said:
3 "I asked the same question with
4 different wordings about ten times before I
5 got a direct answer."
6 That implies that I did after
7 asking enough times get a direct answer, so
8 we made some progress.
9 Q And you finally did get a sense
10 of what the spread to LIBOR that Lehman
11 believed would be merited -- was "merited"?
12 A It says here:
13 "He said what spread to LIBOR
14 he believed would be merited."
15 Q And when -- the "he" is
16 referring to one of the Lehman
17 representatives on the call?
18 A It looks like it's referring to
19 Sandeep because he's the only person that
20 is referred to in that paragraph by name.
21 Q And if you look at Shapiro
22 Exhibit 55, which is the version 13 of the
23 screen shots.
24 A Yes.
25 MR. LAWRENCE: 55, you said.

1 Peter Shapiro
2 A Okay. So then it's probably
3 not a good conclusion to assume that --
4 that that minus 20 emerged in that call.
5 Q And do you have any
6 recollection as to the spread to LIBOR that
7 Lehman communicated in that call in July of
8 2010?
9 A No.
10 Q And if you don't reach the
11 conclusion that the minus 20 reflected in
12 Shapiro Exhibit 56 -- 55 came from Lehman,
13 do you have any idea where that valuation
14 came from?
15 A Which valuation?
16 Q That spread to LIBOR came from?
17 A The minus 20 that shows up in
18 55?
19 Q Yes.
20 A You know what, we would have to
21 -- I don't know. You have asked me that
22 before, where it came from, and I don't
23 know. You know, I think you just said
24 earlier you believed the minus 20 showed up
25 earlier, which I am looking.

1 Peter Shapiro
 2 It shows up in 54. And it
 3 probably shows up numerous other times if
 4 we retrace the discussion we have already
 5 had to today. It shows up in 53, which
 6 was, you know, again June 23rd --
 7 June 22nd, which is Exhibit 52.

8 It looks like probably shows up
 9 there, too. These pages, it shows up
 10 there, too. So, obviously, it emerged
 11 prior to this call.

12 Q Did Swap Financial do any
 13 analysis as to the valuation for the spread
 14 to LIBOR disclosed by Lehman on this
 15 July 14, 2010, call?

16 A Did we do an analysis based
 17 on -- and the spread, which I am saying I
 18 don't know -- on this call? I can't tell
 19 you that.

20 Q So Lehman --

21 A I don't even know what the
 22 spread was. I can't tell from this.

23 Q But Lehman gave you a spread to
 24 LIBOR number. But you don't recall whether
 25 or not Swap Financial tried to analyze that

1 Peter Shapiro
 2 BY MR. LAWRENCE:
 3 Q If you could look at Shapiro
 4 41, your notes, it's your note, not
 5 Principia.
 6 A Back before all of this pretty
 7 color printing.
 8 MS. SAWYER: I will just
 9 reiterate your objection to this use
 10 of the exhibit.
 11 MR. LAWRENCE: Well, you
 12 already used. It's too late.
 13 Q It's a simple question when you
 14 get there.
 15 A Yes, I am working my way back
 16 there. 42.
 17 Q There it is.
 18 A Bingo.
 19 Q If you look at the page stamped
 20 2315, a notation about a July 14, 2010,
 21 call with LB; do you see that?
 22 A Yes.
 23 Q That's a call you've been --
 24 were asked about with respect to Lehman 58?
 25 A Lehman 58 is the one we just

1 Peter Shapiro
 2 to determine the value that correlated with
 3 that?

4 A So all I can tell you for sure
 5 is we finally got a little bit of one, and
 6 when he said what spread to LIBOR he
 7 believed would be merited.

8 Q My question is --

9 A I don't know what that number
 10 was, and I don't know if we took his number
 11 and ran some analysis based on it. It's
 12 clear from everything I say in this memo to
 13 Bob that we didn't think that was the final
 14 number we would be looking at.

15 Q Do you recall whether or not
 16 Swap Financial did any analysis of the
 17 spread to LIBOR number provided by Lehman
 18 in the July 2010 call?

19 A No.

20 MS. SAWYER: I don't have any
 21 further questions.

22 MR. LAWRENCE: I have one.

23 (There was a discussion off the
 24 record.)

25 CROSS EXAMINATION

1 Peter Shapiro
 2 finished discussing it?
 3 Q Yes.
 4 A It looks like that, yes. You
 5 know, it has to be the same call. There
 6 can't have been two large calls involving
 7 Washington Tobacco, the Lehman cast of
 8 characters.

9 So that's -- that's obviously
 10 notes on that call, so it may be worth it
 11 just to read that over.

12 Q Well, I just wanted to confirm
 13 that. If you want to follow up on that,
 14 that's fine. Otherwise, you don't have to
 15 bother to read it.

16 REDIRECT EXAMINATION

17 BY MS. SAWYER:

18 Q Does it refresh your
 19 recollection that the spread to LIBOR
 20 disclosed by Lehman was either 48 basis
 21 points positive or 130 basis points
 22 positive?

23 A That's what it looks like.

24 Q And did Swap Financial ever
 25 analyze the corresponding termination

Page 480

1 Peter Shapiro
2 amounts that would be resulting from
3 assuming a spread to LIBOR of positive 48
4 basis points?

5 A I -- my guess is we didn't,
6 that we found it was so absurd. And you
7 are not seeing -- there's no -- nothing
8 that has been in any of the production with
9 spreads that were like that, positive
10 spreads to forty -- you know, plus 48 or
11 plus 130.

12 Q So you don't think Swap
13 Financial ever determined termination
14 amounts that corresponded to those spreads
15 to LIBOR?

16 A I don't think so.

17 MS. SAWYER: I don't have any
18 further questions.

19 THE VIDEOGRAPHER: Anything
20 further, Counsel?

21 MR. LAWRENCE: That's it.

22 (There was a discussion off the
23 record.)

24 THE VIDEOGRAPHER: The time is
25 3:07 p.m., October 16, 2014. This

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1
2 J U R A T
3
4 I DO HEREBY CERTIFY that I have
5 read the foregoing transcript of my
6 deposition testimony.
7
8
9
10
11 SWORN TO AND SUBSCRIBED
12 BEFORE ME THIS
13 DAY OF 2014
14 -----
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1 Peter Shapiro
2 completes the videotaped deposition of
3 Mr. Peter Shapiro.
4 (Deposition adjourned, 4:29.)
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2 I N D E X
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5 WITNESS DIRECT CROSS
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8 PETER SHAPIRO
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10
11 BY MS. SAWYER 259, 479
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15 BY MR. LAWRENCE 478
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57 (Pages 480 to 483)

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1
 2 DOCUMENTS REQUESTED
 3
 4 Documents, MS Quote Sheets, 397
 requested

5 Request for information regarding 471
 6 Mr. Singer's testimony related to
 the forward curve in other case

10 E X H I B I T S
 11 NUMBER DESCRIPTION PAGE

12
 13 Exhibit No. Shapiro 32, E-Mail 260
 chain, top E-Mail dated 1/9/09
 from Bob Cook to Peter Shapiro,
 Subject: TSA, Bates Nos. TSA
 42725 to 42727
 14 Exhibit No. Shapiro 33, 277
 Memorandum dated 12/22/09 from
 Peter Shapiro to Tobacco
 Settlement Authority, Bob Cook,
 Subject: Reserve Fund Agreement
 Advisory Services, Scope of
 Services, Bates Nos. TSA 42818 to
 42819
 15
 16 Exhibit No. Shapiro 34, E-Mail 295
 chain, top E-Mail dated 2/23/09
 from Bob Cook to Peter Shapiro,
 cc to James Vergara and Debra
 Stephenson, Subject: Lehman,
 Bates Nos. TSA 42624 to 42626

1
 2
 3 Exhibit No. Shapiro 41, Word 364
 Document, Notes taken by Mr.
 Shapiro, Bates Nos. SFG 2314 to
 2318

4
 5 Exhibit No. Shapiro 42, E-Mail 397
 6 dated 5/24/11 from Carol Johnson
 to Kim Herman, Bob Cook, Subject:
 7 TSA -- Lehman Brothers, TSA
 Reserve Agreement Investments and
 8 Status Review with Peter Shapiro,
 Bates No. TSA 42744

9 Previously Marked Exhibit No. 400
 10 Shapiro 6, 11/16/11 Memorandum
 from Peter Shapiro to Bob Cook
 11 and Carol Johnson, Bates Nos. TSA
 38481 to 38484

12 Exhibit No. Shapiro 43, Version 1 405
 13 Screen Shot from Principia
 Software, Bates Nos. SFG 2394 to
 2395
 14 Exhibit No. Shapiro 44, Version 2 421
 Screen Shot from Principia
 Software, Bates Nos. SFG 2396 to
 2397

15 Exhibit No. Shapiro 45, Version 3 423
 16 Screen Shot from Principia
 Software, Bates Nos. SFG 2398 to
 2399

17 Exhibit No. Shapiro 46, Version 4 428
 18 Screen Shot from Principia
 Software, Bates Nos. SFG 2400 to
 2401

19 Exhibit No. Shapiro 47, Version 5 428
 20 Screen Shot from Principia
 Software, Bates Nos. SFG 2402 to
 2403

21 Page 485

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1
 2
 3 Exhibit No. Shapiro 35, E-Mail 296
 chain, top E-Mail dated 3/4/09
 from Bob Cook to Peter Shapiro,
 Subject: Lehman, Washington
 State TSA, Bates Nos. TSA 42713
 to 42715

4
 5 Exhibit No. Shapiro 36, 301
 Memorandum dated 3/30/09 to Bob
 Cook from Peter Shapiro, Subject:
 Valuation of TSA's RFA with
 Lehman, Bates Nos. SFG 2349 to
 2350
 6 Exhibit No. Shapiro 37, E-Mail 316
 chain, top E-Mail dated 4/20/09
 from Peter Shapiro to James
 Vergara, Subject: TSA memo,
 Bates Nos. SFG 2370 backwards to
 2369, including 2371 and 2368

7
 8 Exhibit No. Shapiro 38, E-Mail 324
 with attachment, E-Mail dated
 4/21/09 from James Vergara to
 Peter Shapiro, Subject: TSA Loss
 Calc, Bates Nos. SFG 2381 to 2384

9
 10 Previously Marked Exhibit No. 338
 Lehman 15, 4/21/09 Memorandum
 from Peter Shapiro, James Vergara
 to Bob Cook Concerning:
 Calculation of Loss, Bates Nos.

11
 12 TSA 21616 to 21618
 Exhibit No. Shapiro 39, Claim 343
 Amount Document, Bates No. SFG
 2348

13
 14 Exhibit No. Shapiro 40, E-Mail 356
 chain, top E-Mail dated 8/23/10
 from Nathaniel Singer to Peter
 Shapiro and Lilian Chern,
 Subject: Tobacco, Bates No. SFG
 2352

1
 2
 3 Exhibit No. Shapiro 48, Version 6 429
 Screen Shot from Principia
 4 Software, Bates Nos. SFG 2404 to
 2405

5 Exhibit No. Shapiro 49, Version 7 430
 6 Screen Shot from Principia
 Software, Bates Nos. SFG 2406 to
 2408
 7 Exhibit No. Shapiro 50, Version 8 438
 Screen Shot from Principia
 8 Software, Bates Nos. SFG 2409 to
 2411

9 Exhibit No. Shapiro 51, Version 9 440
 10 Screen Shot from Principia
 Software, Bates Nos. SFG 2412 to
 2414

11 Exhibit No. Shapiro 52, Version 442
 12 Screen Shot from Principia
 Software, Bates Nos. SFG 2415 to
 2417

13 Exhibit No. Shapiro 53, Version 443
 14 Screen Shot from Principia
 Software, Bates Nos. SFG 2418 to
 2420

15 Exhibit No. Shapiro 54, Version 445
 16 Screen Shot from Principia
 Software, Bates Nos. SFG 2421 to
 2422

17 Exhibit No. Shapiro 55, Version 446
 18 Screen Shot from Principia
 Software, Bates Nos. SFG 2424 to
 2426

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1
2
3 Exhibit No. Shapiro 56, Principia 449
Screen Shot: Termination Date
4 2042, Market Value as of 3/25/09,
Bates Nos. SFG 2388 to 2389
5

Previously Marked Exhibit No. 456
6 Lehman 12, Declaration of Peter
Shapiro, Bates Nos. LBHI WTSA
7 16384 to 16389
8 Exhibit No. Shapiro 57, E-Mail 457
chain, top E-Mail dated 4/30/12
9 from Peter Shapiro to Carol
Johnson and Lilian Chern;
10 Subject: TSA -- Lehman Call
Today, Bates Nos. SFG 2322 to
11 2324
12 There was an instruction not to 460
answer.
13

Exhibit No. Shapiro 58, E-Mail 464
14 chain, top E-Mail dated 7/14/10
from Peter Shapiro to Kim Herman;
15 Subject: Washington TSA,
Four-Page Document, No Bates
numbers
16

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Page 489

1
2 CERTIFICATE
3

4 I, TAB PREWETT, A Registered
Professional Reporter, Notary Public,
5 Certified LiveNote Reporter, and Certified
Shorthand Reporter, do hereby certify that
6 prior to the commencement of the
examination PETER SHAPIRO was sworn by the
7 notary public to testify the truth, the
whole truth and nothing but the truth.
8

9 I DO FURTHER CERTIFY that the
foregoing is a true and accurate transcript
10 of the testimony as taken stenographically
by and before me at the time, place and on
the date hereinbefore set forth.
11

12 I DO FURTHER CERTIFY that I am
neither a relative nor employee nor
attorney nor counsel of any of the parties
13 to this action, and that I am neither a
relative nor employee of such attorney or
counsel, and that I am not financially
interested in the action.
14
15
16
17

18
19 Notary Public
20

My Commission expires February 9, 2019
21 Dated: October 19, 2014
22
23
24
25

59 (Pages 488 to 489)

Elisa Dreier Reporting Corp. (212) 557-5558
950 Third Avenue, New York, NY 10022

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